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In the Supreme Court of the United States

UNITED STATES OF AMERICA, ET AL., APPELLANTS

v.

AMERICAN LIBRARY ASSOCIATION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOINT APPENDIX
(VOLUME 3)

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DANGEROUS ACCESS, 2000 EDITION:

Uncovering Internet Pornography in America's Libraries

[SEAL]

David Burt, Author

Dangerous Access, 2000 Edition:
Uncovering Internet Pornography in America's Libraries
By David Burt
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FOREWORD

by
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The author, David Burt, is a public librarian in Lake Oswego, Oregon, a loving husband, father, and good friend. Despite his full life and schedule, he has become a tireless and effective activist working to keep America's libraries safe for children and adults and free from the destructive presence of illegal pornography and sexual predators.

As a librarian, David knows and supports the mission and purpose of a public library, best expressed in the mission statement of the Los Angeles Public Library: "The Los Angeles Public Library strives to inform, enrich, and empower every individual in its community by creating and promoting free and easy access to a vast array of ideas and information and by supporting lifelong learning in a welcoming environment." No one could imagine that such a noble purpose was meant to include a pedophile operating a child pornography website and soliciting sexual liaisons with children in that very library.

Aware that pornography is becoming a staple in one library after another because adults and children are accessing it through unfiltered library computer terminals, David could no longer reconcile the mission of

public libraries with what was happening. Equally distressing to him was the absolute refusal of the American Library Association (ALA) to admit a problem existed or to exercise its enormous political and financial clout to keep America's libraries from becoming virtual dirty bookstores open to children and funded by taxpayers. Thankfully, a growing number of public librarians and officials have recognized the magnitude of the problem and are acting to stop it, despite the resistance of the ALA.

David's activism has exponentially increased since he created his website, *www.filteringfacts.org*, where he continues to gather, archive, and disseminate information as well as provide assistance to those who share his concerns and efforts to stop the misuse and perversion of public libraries.

While 74 percent of public libraries provide some access to the Internet and related services through interactive computer services, only 15 percent of those libraries utilize some type of blocking technology on at least some of their public workstations. The most significant reason that so few libraries have utilized blocking technology is the policies, pressure, and practice of the ALA in advocating for unrestricted access by anyone, regardless of age, to all of the materials available on the Internet regardless of content, including the most deviant pornography. This includes child pornography, hardcore depictions of rape, sexual torture, sadomasochistic abuse, group sex, and sex involving urination, defecation, and bestiality.

Dangerous Access, 2000 Edition, reports on a project David initiated last year to follow up to his original *Dangerous Access* released in March 1999. With the help of the Family Research Council, David submitted Freedom of Information Act requests to all fifty state-library systems; responses were sent to him for study and analysis. Because of the explicit nature of many of the reported incidents that David highlights, reader discretion is advised; the material is clearly not suitable for children. David is the sole author of *Dangerous Access, 2000 Edition: Uncovering Pornography in America's Libraries.* As the reader will see in the following pages, David lays the blame at the doorstep of the ALA.

The following pages prove that library online-services are being used by adults and children to access illegal pornography and that libraries are scenes of public masturbation and other sex crimes, often with full knowledge of library staff, some of whom have refused to call police. The ALA has acknowledged that the First Amendment protects none of this material. It is the height of hubris and duplicity for the ALA and public librarians knowingly to provide this illegal material and attempt to wrap themselves in the Constitution. (An analysis of federal obscenity, child pornography, state material-harmful-tc-minors law, and the ALA Bill of Rights and Code of Ethics is provided in Appendix B.)

All who want to enjoy the services provided by public libraries with the knowledge they and their children are safe "in a welcoming environment" owe David Burt their deepest thanks for his momentous work. If Americans fail to act upon it and do nothing to stop the degradation and abuse of public libraries, it will be to their shame and loss.

INTRODUCTION

A six-month investigation of documents obtained through Freedom of Information Act requests to public libraries has uncovered more than two thousand documented incidents of patrons, many of them children, accessing pornography, obscenity, and child pornography in the nation's public libraries. Many of the incidents were highly disturbing, as librarians witnessed adults instructing children in how to find pornography, adults trading in child pornography, and incidents involving both adults and minors engaging in public masturbation at Internet terminals. Analysis of computer logs from just three urban libraries revealed thousands of incidents that went unreported, indicating that the 2,062 incidents represent only a fraction of the total incidents nationwide. The total number of incidents each year nationwide is likely to be between four hundred thousand and two million.

Nearly all of the nation's public library systems were contacted with freedom-of-information requests, but 71 percent of the public library systems ignored the requests. Both the American Library Association and a number of state libraries sent messages to public libraries suggesting ways that libraries could avoid compliance with the requests. Several state librarians

actually told public libraries in their states not to comply.

The incidents suggest that Internet policies alone do not deter crime on library Internet stations. The incidents supplied by libraries included 172 incidents where librarians described crimes being committed, such as the accessing of child pornography, the accessing of material described by the librarians as "obscene," public masturbation, and adults exposing children to pornography. In only six of these incidents (3.5 percent) were the police notified.

Obtained along with the incident reports were the Internet access logs of three public libraries that employ filters in Tacoma, Washington; Cincinnati, Ohio; and Dayton, Ohio. The logs reveal that among those sites blocked by filters, only 0.01–0.07 percent were nonsexual in nature. In other words, 99.93–99.99 percent of the time, the filter did not block innocent sites.

The failure of many libraries to prevent these incidents combined with the demonstrated effectiveness of filtering software supports the appropriateness of legislation to require the use of filters in public libraries.

WHY THIS REPORT WAS NECESSARY

According to a 1999 study in *Nature*, there are approximately 12 million pages of pornographic content on the Internet, accounting for 1.5 percent of all Internet content.[1] The anonymous environment of the public library offers the ideal place to access this sea of pornography. Children who want to avoid supervised access to the Internet at home and school, men who do not wish to risk their pornography habits being discovered

by their wives and children, transients without any other access to Internet pornography, pedophiles wishing to download illegal child pornography, and sexual perpetrators wishing to expose others to pornography would all be attracted to a public library to obtain free access to the Internet.

Many librarians report situations in their libraries where "porn surfers" create serious problems. Michael Schuyler, systems' librarian for the Kitsap, Washington, Regional Library System, describes the experience in his own library:

> "Porn Alley" is what we call it here—a row of PCs facing away from thereference desk with full Internet access. It's inhabited from the moment we openuntil the moment we close by brazen folk who, with no shame, will look atpornography no matter who is around or how shocking it may seem.[2]

Orange County, Florida, Public Library director Dorothy Field described her own situation:

> A number of people were coming into the library and accessing sites that wouldbe described as hardcore porn. I am not talking about *Playboy* and naked ladies. Iam talking about stuff in the back room of adult bookstores. They would view thisfor hours on end.[3]

The response of both the American Library Association and the "free speechcommunity," organizations such as the American Civil Liberties Union and People for the American Way, has been to discount such reports. Ann Symons, immediate past president of the American Library Association, recently said, "The whole issue of protecting children has been blown way out of proportion by the media and those who seek to

promote their own agendas."[4] Judith Krug, director of the ALA's Office of Intellectual Freedom, even went so far as to say that "their number is so small that it is almost laughable," and "only one child out of a trillion billion" might use library computers to seek out pornography.[5]

Other free-speech organizations have taken a similar line. Larry Ottinger, staff counsel for the People for the American Way, called filtering "an unconstitutional solution in search of a problem."[6] The ACLU has dismissed the many published accounts of patrons viewing pornography in libraries as "a few unconfirmed press reports."[7]

* * * * *

Library Incidents Involving Internet Pornography

The data for this report was gathered during two periods. Filtering Facts published *Dangerous Access, 1999 Edition*, in March 1999 after gathering the details from 613 freedom-of-information requests filed with public libraries. Three months later, the Family Research Council funded a more comprehensive series of freedom-of-information requests. Using the mailing list of *American Library Directory, 1997–98 Edition*, more than fourteen thousand requests were mailed to the nation's 9,767 public library systems.

	1999 Study	2000 Study
Request Sent to Public Libraries	613	9,767
Libraries Reporting No Incidents	NA	2,333
Libraries Reporting Incidents	114	338

After the responses were received, the total number of incidents from all the 452 libraries that reported incidents were tabulated and classified. The incidents, along with a few news stories published independently of this study, totaled 2,062. These incidents involved library patrons viewing pornographic material as defined by the incident reports using the terms "pornographic," "porn," "pictures of naked women," "obscene material," "sex picture," "sexually explicit material" "adult web sites," and "smut sites." Also included in the total incident number were incidents that featured the names of sites being viewed by patrons that were obviously pornographic in nature. Patrons viewing "inappropriate" material were also included because the request letter specifically asked for incidents of "patrons accessing pornographic or sexually explicit mate-

rial"; these incidents are, therefore, thought to be of patrons accessing pornographic material. Phrases used in these incidents included "inappropriate," "not appropriate," "objectionable," "violating policy," and "offensive."

Incident Reports, Patron Complaints, and News Stories	Number
Child Accessing Pornography	472
Adult Accessing Pornography	962
Adult Exposing Children to Pornography	106
Adult Accessing Inappropriate Material	225
Attempted Molestation	5
Child Porn Being Accessed	41
Child Accidentally Viewing Pornography	26
Adult Accidentally Viewing Pornography	23
Child Accessing Inappropriate Material	41
Harassing Staff with Pornography	25
Pornography Left for Children	23
Pornography Left on Printer or Screen	113
Total Number of Incidents	**2,062**

In addition, eight freedom-of-information requests were submitted to public libraries that use Internet filters and maintain logs of sites accessed by patrons. Three library systems supplied their respective incidents recorded in their computer logs:

Public Library	Number of Annual Incidents*
Tacoma, Washington, Public Library	1,764 (actual)
Cincinnati, Ohio, Public Library	30,159 (attempted)**
Dayton, Ohio, Public Library	14,358 (actual & attempted)***

* An *incident* in a library computer log is defined as a single unique Internetsession.

** Based on a fifty-two day sample. All recorded accesses were blocked.

*** Adults may override the filter. It is unknown how many blocks were overridden or the content of the sites blocked.

CHILDREN ACCESSING PORNOGRAPHY

A significant portion of the total incidents involved children. The category, "Child Accessing Pornography," accounted for 472 incidents. There were 673 total incidents involving children; that is 33 percent of the total. Most of the children were young adolescents, but many of these children were quite young. In some incidents, older children were showing the younger children pornography. The following incidents involved young children:

A patron at the Houston Library noticed:

A set of brothers using two side by side display monitors. One child about twelve was teaching two others about ten and eight years old how to access the pornography sites.

A patron in Bremerton, Washington, complained:

While my daughter checked out the books, my attention was immediately drawn to this vivid full

screen photo of a sensuous blonde with full frontal nudity! The 8-year-old boy operating the screen glanced around with a mixture of guilt and desperation written all over his face.

A staff member at the Kokomo Howard County Public Library in Indiana reported:

A young boy, about 9–11 years old, was signed up to use computer #1 for the Internet. He had purchased paper and was printing off pictures before we noticed that he was sitting at the wrong computer. Another patron who was signed up for computer #2 told us about the mistake. We asked the boy to move over to computer #1 and discovered that he had been printing colored pictures of obscene material. When the computer patron came over to use computer #2 we had to clear his sites in full view of the patron. We did not have any complaints and so we did not ask him to leave his sites. I discussed this incident with other staff members, so that we could watch him & monitor his behavior. We may want to take another look at our Internet policy.

A librarian at the Morton Grove Public Library in Illinois reported:

Patron reported that she had been working in a study carrel near the Internet terminals for approx. 2 hours. During that time she witnessed a male child, approx. 7 years old accessing adult oriented web sites at Internet station #3. When she would walk past him, he would quickly switch to another screen. The patron reported having seen staff stroll past a couple times. The patron brought this to the attention of desk staff. When I returned from lunch,

I spoke with her. Her main concern is that the Internet terminals are much too far away from the staff/information desk. She said that even if the staff patrolled by every 10 minutes, it still wouldn't be enough because the kids are so fast. She said the Internet stations should be directly in front of the information desk so that staff can easily see what the kids are into at any given moment. She is concerned with all the children who use this tax-supported library, not just her own kids.

These incidents often upset library staff as well as patrons. A branch manager of the Yakima Regional Library in Washington wrote to her director:

This is a difficult letter to write. . . . On Monday of last week a group of about eight to ten teenage boys came to the library and asked me if they could get pornography on the Internet. I replied that they could . . . Several pictures were printed of naked women from the waist up. Later that afternoon, one of the younger boys (elementary age) said that the big boys had shown some dirty pictures on the computer . . . First, it is against my personal convictions to provide pornography or X- or R-rated pictures to children. When I applied to work at the library, running a porn shop was not in the job description. A second and greater issue is that we are supplying pornography to minors without their parents' permission or knowledge. A staff member at the Seattle Public Library sent a similar e-mail to co-workers: Every day children are viewing materials that [they] are by law denied access to in other venues. Traditionally the library has offered free unfettered access to all materials to any person

regardless of age. The library also had control over what materials are available. The Internet is uncontrolled. The best and worst that humanity has to offer is there in vivid color and sound for anyone who can point, click, and type a few words. Why isn't the library providing protection from this kind of material? Immediate steps should be taken to form a policy on what children should and should not have access to.

More incidents involved older children, sometimes with very explicit pornography and chat rooms, as these library staff incident reports show:

A couple of our younger patrons were printing out porno from the Internet stations in the cubicles. They were between the ages of 10–12. These were explicit bondage photos. I discovered them quite by accident. It was closing and a printout was left in the printer. So, I would like to put an age of 14 restriction on the cubicles.

—Escondido, California, Library

At about 9:30 am, circulation forwarded a call to me from a mother concerned that her 12-year-old son had found "very explicit" and "disgusting" sexual pictures on our Internet computer, printed them and brought them home. She didn't seem to want to leave her name so I didn't push it. She claimed the child said an adult in the periodicals room showed her son where to find these pictures. I of course, clarified that she didn't mean a staff member. I explained that library policy is that we don't allow such things, etc. Once I got her to understand that the library has no control over what is on the Internet, she seemed to accept my answer.

—Grove City, Ohio, Library

A young lady about 13 years was using a chat terminal. As I walked by I noticed the word "f---ing" used a couple times. Next time I checked I noticed the screen said "Now I'm touching your t--s." Then it went on into "Now I'm f---ing. . . ." At that point I said to her that objectionable language shouldn't be used on the computers and she should switch to another chat site. She said she would and then logged off and left.

—Medina County, Ohio, Public Library

Shortly after the Columbine shootings in Littleton, Colorado, a librarian at the Bemis Public Library in Littleton expressed grave concerns to a supervisor about the possibility of another incident tied to the library:

Last Friday I met with a mother who was cleaning her 15-year-old son's room and looking around to see what he's been up to. What she discovered was a 2 inch thick stack of Internet downloads. The stack included 1. Credit card fraud—how to do it, 2. Counterfeiting money—how to do it, 3. How to make a portable grenade launcher, 4. How to make an auto exhaust flame thrower, 5. How to make dynamite, 6. Chemical equivalencies, 7. Light bulb bombs and tennis ball bombs, 8. How to hot wire cars, 9. Mail box bombs and smoke bombs, 10. Sexuallyexplicit pictures and sexually explicit stories like "how many loads of c—can Kaitlyn swallow?" In the wake of Columbine, his mother wanted to turn these and her son in for this. The investigation and interview of this boy revealed that ALL of these downloads came from the Bemis

library. There is no computer in the child's home and his mother confirmed that the only place she takes him is the Bemis library where he told her he does his homework. The kids also offered that it is widely known that you can get anything from the Internet at the library without any password, username or other information. Is there anything that can be done about this? We have enough problems with juveniles without giving them a library to gain access to whatever illegal and crime related material they want. I would hate to see where someone was injured or killed from a tennis ball bomb that the suspect offers they learned to make from an Internet download at the library. Ironically, the *Rocky Mountain News* had an article on it today (p. 22A). I want to let you know this appears to be a growing problem.

Accessing Internet pornography led some children to other behaviors. The director of the Grayville Library in Illinois stated:

> Five teenagers/young men lost computer privileges for accessing sexually explicit/pornographic web sites . . . Two of the young men actually entered the library after hours to access these locations. Needless to say, the matter was turned over to our local police.

Four children were even observed who appeared to be masturbating, one to bestiality. A Broward County, Florida, staff member reported that a

> Young man probably 13 or 14 years old had accessed something having to do with sex with animals. He acted strangely, perhaps also masturbating. I asked

> him questions about what he was doing and after a while he left.

In Ft. Collins, Colorado, a staff member wrote:

> Boy looking at pornography on the web and fondling himself. Sandy-haired boy of 11 or 12, hair cut short, rather chubby. A library customer telephoned the library to say that when he had been on a www station earlier he had looked up and seen a boy looking at "hardcore" pornography on station #9 and touching himself.

An incident report filed by a Ft. Vancouver, Washington, Public Library staff member noted the following:

> After several prior incidents of sperm being found by staff in the restroom on the floor after a particular set of brothers have been using the Internet and restroom, I approached one of the patrons, asked him into my office and told him that we had seen a pattern of sperm and his Internet use. After examining his hands for an extended period of time, I said that ejaculation was an inappropriate activity in the library.

Internet pornography, pornographic chat rooms, and masturbation at the library played a key role in the attempted molestation of a four-year-old boy by a thirteen-yearold boy at the Phoenix Public Library, according to this police report:

> On 6-29-98 at approximately 1430 hours, [S]ergeant Ruiz was contacted by a patrol sergeant reference an attempt sexual conduct with a minor, occurring at the Phoenix Public Library. . . .

Officer Jackson first talked with Cheryl ___, who informed him that she had arrived at the library approximately a little after 1:00 p.m. and her [four-year-old] son needed to use the restroom. She walked her son over to the restroom located on the second floor of the library and let her son go into the men's restroom by himself. Her son was gone for approximately 2 to 3 minutes when he came back outside and told his mother that there was a boy inside the bathroom who was willing to give him a quarter to "suck his d---."

Interview with Damian [Suspected perpetrator, age 13]. Damian told me he arrived at the library approximately 12 o'clock. He stated he had taken the bus from his house and that he comes to the public library daily. I asked Damian to tell me a little bit of what he does at the library. Damian stated that he always gets on the computer and gets on the Internet and goes into the chat room on the computer. He told me that his handle on the computer was Aqua 3000. He said he entered a chat room and began to talk with a subject who referred to himself as Macho Man 73, at which time this subject was making several remarks to Damian. Damian told me that the subject was typing in remarks such as he knows that his Mom smokes dope and that he was so skinny that you could hula hoop him through a cheerio. Damian stated that he changed from that chat room and went into a second chat room on the Internet and once again Macho Man 73 let him know that he knew that Damian was at the public library and asked him if he wanted to play truth or dare. Damian stated that he was willing to play that with this subject on the com-

puter at which time the subject told him to go into the boys restroom which was located on the second floor and ask another little boy if he would let him suck his d---. Damian responded back into the computer to Macho Man 73 and stated that he would do it.

I once again asked Damian if what he had done was right or wrong. Damian state[d] that he knew that this was wrong and that he has never approached anybody like this before. I asked Damian then why did he do it this time, to which he responded that it was a dare from the Macho Man 73 guy on the computer and that he just wanted to do it. I then asked Damian what he meant by earlier in the conversation that he was going to the restroom by himself. Damian told me that he was going to the restroom after he had been looking at pornography on the Internet and he would masturbate himself while inside one of the stalls in the restroom. He told [me] that during this two to four hour period while at the library he would go a minimum of two times each visit and masturbate.

—Phoenix Police Department Report, June 29, 1998

Patrons seeking to protect their children in some cases reported meeting with indifference or exasperation from librarians. As one incident report revealed, a patron wrote to the Sacramento Public Library after this experience:

> I was at the library with my children ages 7, 10, 12. A child was looking at an Internet file that I felt was not appropriate to view in a public place. On the screen was a photo of a nude woman lying with legs spread. Another person was touching her bottom

with his/her tongue. This child's activity was in plain sight of everyone who happened by the computer area or was descending the stairway to the "kids place." My children along with others in the area were unwilling subjects to this unsuitable material. When I spoke to the staff person, I was informed that she had no control in this matter, that is was the parent's responsibility to control their children. Unfortunately, the parent of this child did not appear to be in the area at the time.

In another incident report, a patron at the Novi, Minnesota, Public Library wrote to her library about her experience:

> On a Saturday afternoon when we visited the library, I observed a young man (around age 12 or 13) sit down at an Internet station. Within a matter of seconds he was viewing full screen, live action, pornography. He changed the screen a few times and viewed a variety of other pornographic material. I notified a librarian who told me "there's nothing I can do" and "this happens all the time. . . . I am especially bothered by the men who come in here to do this."

Another patron of Timberland Regional Library in Olympia, Washington, wrote:

> More and more as I visit the library I see children sitting on the computers looking at very graphic pornography. This time I glanced over and saw a young teen viewing an explicit image and an eight or nine-year-old boy was happily looking over his shoulder. I told the librarian who simply shook her

> head and said there was nothing she could do about it.

These reactions by the librarians are consistent with how the ALA instructs librarians. A recent ALA pamphlet for librarians, *Frequently Asked Internet Questions*, addresses the question, "What do I do when I find a child looking at sexually explicit information online?" The answer given states: "Public Libraries do not have policies that restrict the content or use of information provided by the library. Therefore, these policies also protect Internet use."[15]

PUBLIC LIBRARIES AS CONDUITS FOR CHILD PORNOGRAPHY

One of the most serious problems with anonymous, unfiltered Internet access is the use of libraries as conduits for the distribution of child pornography. Filtering Facts documented forty-one of these incidents. Many public libraries employ policies that would seem to encourage the illegal transmission of child pornography.

Many public libraries not only have privacy screens, but also destroy patron sign-up sheets after use, and employ computer programs that delete any trace of user activity. These policies make it very difficult for law enforcement to catch pedophiles using public library Internet stations to download child pornography. Indeed, such an anonymous environment of Internet access would seem attractive to pedophiles, since there is little chance their crimes will be traced back to them. At the Multnomah County, Oregon, Public Library and the Los Angeles Central Library, pedophiles have taken advantage of the anonymity to run child

pornography businesses using library computers. The *Los Angeles Times* reported:

> A convicted child molester who routinely used computers at the Los Angeles Central Library to collect and distribute child pornography was arrested after planning what he thought would be a sexual liaison with six youngsters—one as young as 3, police said Thursday . . . "He would go to the library as soon as it opened up and signed up to use each computer on each floor. . . From there he maintained his Web site, while e-mailing and communicating with members of his club. He sent me as many as 300 images of child pornography."[16]

The response of librarians to the transmission of child pornography in their libraries at times encourage these activities. Only five of the forty-one (12 percent) incidents of child pornography were reported to the police. Librarians actually observed the child pornography on thirty-three of these occasions reported to Filtering Facts. Among the material librarians described seeing were "nude pictures of young boys and girls" (Brevard County, Florida), "pictures of babies attempting sex" (Jeffersonville, Indiana), "pictures of naked little boys," (Grand Rapids, Michigan), and a photo that "showed a child no more than five with a man's penis in her mouth," (Olympia, Washington). In one incident report, a patron at the Sunnyvale, California Library complained because the librarian did nothing:

> During a visit at the copy machine once I was able to view one of the monitors for the Internet screen. The person was viewing child pornography. I complained tothe library staff and was informed that

> nothing could be done to stop this. I was very shocked and frustrated!

Some librarians confiscate the material, issue warnings, or bar the patron from the library, as this staff incident report from the San Diego Public Library reveals:

> Patron was using the Internet along with 2 young boys. Mr. W. was standing behind them about 8 feet away. Patron turned around and said something to Mr. W., which he could not hear and he moved closer to ask what he said. Patron was verbally abusive to Mr. W. and used foul language. Mr. W. observed that patron was viewing nude pictures of young boys and girls on the Internet and he reported it to library staff. I escorted Mr. W. to another area in the library and returned and asked patron to leave because of his inappropriate use of library equipment. I reminded him that he had been warned several times about this kind of behavior. Patron refused to leave. At this time I told him if he didn't leave voluntarily, I would call the police and have him removed. Patron continued to use the Internet for about 10 more minutes before police arrived. I signed a trespass order against patron.

A staff report from the Skokie, Illinois, Public Library is similar:

> Our biggest complaint has been ____. I did approach a man on the reference side who was bringing up pictures of babies attempting sex. I explained that this was inappropriate and we had several children in the building at the time. He said OK, but was trying to download to a disc.

Yet not all librarians are as responsive. At the Sonoma, California, Public Library, a staff member sent an e-mail message to his supervisor stating:

> There are 3 men on my shift who come in regularly, perhaps daily. One views child porn of nude boys in tubs. . . . These images are clearly visible. . . . What does it mean to have child molester posters up in our staff lounge & yet we make daily Internet appointments for someone to watch kiddy porn in the library on the library comp? Isn't this crazy?

But the supervisor responded:

> I don't like it either, but there is nothing we can do about it. The best thing for staff is to ignore it . . . please use your time in more constructive ways.[17]

One of the five incidents where the library actually notified police occurred at the Lakewood, Ohio, library. In an account from the *Akron Beacon Journal*:

> But it was the library more than the police and prosecutor that alarmed Chris Link, executive director of the American Civil Liberties Union of Ohio. "Traditionally, librarians have protected their records of lending activity to the point of being subpoenaed or going to jail," she said. But now, she said, "librarians are scrutinizing what it is you look at and reporting you to the police." In the case of kiddie porn, Link said, such scrutiny "would seem to make sense" until it is viewed in light of the government's history of searches for socialists and communists or members of certain student movements.[8]

The Callaway County Public Library in Missouri even actively resisted police efforts to investigate a patron accessing child pornography. Library staff

refused to cooperate, even when issued subpoenas. The county attorney explained in a letter to the library:

> When Fulton police received a report of a man going to the library, accessing the Internet on the library computer, using that library Internet access to view child pornography and then using the library equipment to print out child pornography at the library, an officer went to investigate. The officers and I were shocked that the library through you and Nancy resisted cooperation rather than doing everything you legally could to help.

Finally, the pedophile monitoring group, PedoWatch, has confirmed that on-line pedophiles are telling each other to use public libraries to download child pornography. PedoWatch is "one of the oldest organizations on the Internet that is working with law enforcement worldwide to remove child pornography and child luring activity," and currently works with "over 125 law enforcement officers" to monitor the activities of online pedophiles. The director of PedoWatch, Julie Posey, wrote the following in response to a query from Filtering Facts:

> Basically what happens out there is that pedophiles on the Internet "network" together. It is much like just about any other interest that a person may have. There are mailing lists, message boards, chat rooms and multitudes of other resources that they use. When a particular pedophile finds that the library is a safe secure place to view and download pornography, he shares this information with others with his same interests that he comes in contact with. Some libraries won't allow downloading so that information is passed on too. Remember that beforethere can be child pornography in the first

place, there has to be a perpetrator and a victim. I have seen cases where pedophiles on the Internet use the library to talk with children and eventually lure them to have a face-to-face meeting. These children are then molested, photos taken and further exploited when he sends the child's pictures to masses on the Internet.[19]

ADULTS EXPOSING CHILDREN TO PORNOGRAPHY

There were 106 incidents of adults exposing children to pornography. In most of the incidents, the adult porn surfers appeared simply not to care who was around, even openly viewing pornography in children's departments, on terminals set aside for children. Several reported incidents contained letters from parents describing scenes they witnessed in public libraries:

> My fifteen-year-old daughter returned from the library recently, visibly upset, and told me that the computers in the library were being used by patrons to view pornography. She personally observed graphic pictures on the screen and also stated that the computers in the children's section were being used by a minor to participate in an adult chat room.
>
> —Seminole County, Florida, Library

> I am writing this letter to inform you of a very real problem that demands yesterday's attention. Specifically, the problem is a blatant abuse of the PC's that have Internet access. I learned last week that my six year old daughter, while walking through the PC area, came across a young man who had movie footage of two men engaged in oral sex displayed on his PC screen. My ex-wife went directly to the front desk and reported this situation. A few minutes later she saw the man leave the library. What type of controls does the library have on the PC's? With all of the filtering devices available through the Net am I to understand one or more of the PC's are not filtered? Let me propose to you a simple solution. Turn the PC's in such a direction that allows the front desk a view of what is displayed on the screens. My other solutions are not quite as constructive.
>
> —Brookfield, Illinois, Public Library

> I am so appalled at the pornography displayed on the computers by adult users! My 11 year old son and I were flashed by one of these men with this obscenity on the screen. Why is this not prevented? The look on my son's face was horror!
>
> —Lafayette, Louisiana, Public Library

> The man next to my 13 year old daughter was in a party/chat room discussing extremely obscene material via the Internet . . . This man seemed to be very excited during his conversation on the Internet and I was uncomfortable leaving my daughter next to him.
>
> —Orange County, Florida, Public Library

In most states, exposing children to pornography is a crime. Yet not one of these 106 incidents was reported to the police by library staff. Other incidents involved adults actually interacting with children and the use of pornography, as these three library staff incident reports illustrate:

> Patron __ used the Internet from 9 to 12:45. He was observed in inappropriate sites, and was also observed showing younger children how to view power rangers on the Internet. Staff member

Karen asked him not to allow children to view the Internet, then he was warned by staff member Donna about site[s] which could be construed as pornographic.

—Clermont County, Ohio, Public Library

White male with glasses and straight blond hair with balding on top. Man was "skinny" and wearing a white T-shirt. Three young boy[s] (8-9 years old) were waiting to use an Internet workstation. When the man using the workstation finished, he handed a paper to the boys with the following URL: persiankitty.com (see attached). The boys accessed the site and discovered that it was pornographic. They came to the Reference desk and explained the situation to_____ referred them to me. I asked them to repeat their story. According to the boys, the man gave them the paper with the UR[L] and told them, "Look up this. You'll like it." I cautioned the boys against talking with strangers. I told them to come to the Reference Desk if someone was bothering or worrying them. I thanked them for telling us about their situation. They didn't want to give their names or telephone numbers.

—Kern County, California, Public Library

A young boy (about 12-13) complained about an adult male who was viewing "bad pictures" on the Internet behind the reference desk and that the man was harassing the young boy about doing his homework on the Internet.

—Salt Lake County Public Library

PEDOPHILES LURING CHILDREN THROUGH LIBRARIES

There were five incidents of pedophiles attempting to use the library to molest children. All five cases involved Internet access. The first report was published in the *Southwest Arkansas Times*:

> Jill Michelle Cronk, 26, was charged with third-degree carnal abuse for allegedly fondling a 14-year-old girl she had typed messages to over a lesbian chat line on the Internet. The girl corresponded with the woman on the Internet using a Fort Smith Public Library computer. Cronk, who had talked to the girl over the Internet for about a month, caught a flight to Fort Smith Tuesday afternoon and met the girl at the library branch on Market Trace, detective Cpl. Ron Scamardo said.[20]

The second report was submitted by staff at the St. Charles, Missouri City-County Library:

> Stepmother called me, reported that Josh is 17, has been at Fulton for two years in treatment for sexual offenses. Josh was using their computer at home to view pornographic sites . . . a violation of his treatment plan. . . . She found him at the library and discovered what he was viewing [pornography] and reported it to staff. . . . When I finished my conversation with her he was in the company of a younger boy who looked about 10-years-old. . . . The police were called and discovered outstanding warrants against Josh.

The *Charlotte News & Observer* supplied the third report:

> A Harnett County man has been charged with using the Internet on public terminals at the county li-

brary to offer his 7-year-old daughter for sex . . . He was using a free e-mail service to solicit people to have sex with his daughter, officials of the State Bureau of Investigation said. The incidents began in June and continued through October, when the e-mail account was discovered by the man's estranged wife . . . The warrant said the man told his wife he was using computers at the Harnett County Library. The suspect "had access to numerous libraries and may have been using multiple sources to access his account," said Sabrina Currin, a sheriff's detective.[21]

A fourth case involving a thirteen-year-old boy's attempt to molest a four-yearold after viewing pornography and using a pornographic chartroom in the Phoenix Public Library is described earlier in the section "Children Accessing Pornography."

Two incident reports claimed perpetrators exposed themselves in front of children:

> We had a report from a mother who had left her child, a girl about 7 years old, alone in the children's room. When she returned the little girl's screen had up a picture of male frontal nudity. There was an adult man sitting next to the girl. After the mother grabbed her child and left the area the little girl told her mother that the man had exposed himself to her. When the mother returned to the children's room the man was gone. The mother did not want to report it to the police.
>
> —Jefferson County, Colorado, Public Library

A mother in Ft. Lauderdale, Florida, writes of her daughter's experience at the Broward County Public Library:

> In mid-September, I dropped my daughter off at the public library while I attended a morning class. When I picked her up, I could tell something was wrong, but it took her several minutes to tell me what had happened. She told me that she had seen a man sitting at a computer and he was looking at naked women. She then told me that she had seen him touching himself "down there." I immediately turned around and went back to the library. My daughter, who is 12-years-old, told me that she went to the information desk right away to report what she had seen, but the library staff member did not call the police. He did a search of the library, determined that the man had left the premises, and asked my daughter if she wanted to fill out an incident report. I spoke with this same library staff member. I told them I wanted the police and campus security called. One of the library staff said there was nothing the police could do, but I insisted that the police be called or I would call them myself. A report was taken by the police, campus security, and the library. My daughter was so traumatized by the incident, that she could not remember her address or phone number, and she had to be hospitalized the next day for post-traumatic stress and suicidal intentions with intent. Later the following week, I learned that this man had come back to the library again, and he was escorted off library property and given a "no trespass" warning. The library staff failed to obtain this man's name, address, phone number, or any other identifying information before giving him this warning. I also learned from

a staff member, that this man had been reported doing the same thing on six prior occasions without the police being notified. It is the policy of the library that the police not be called for any criminal activity unless directly asked by a patron of the library to notify the police department. My daughter continues to have nightmares about this incident and she is currently in therapy and on medication. At one time, she loved going to the library, now she is terrified to enter the building.

The problem with pedophiles using library computers to lure children has become serious enough that it is even being explicitly mentioned in the terms of supervised release for Internet sex offenders, as this article from *The Roanoke Times* describes:

A man who called himself "Dr. Evil" was sentenced in U.S. District Court Wednesday to 37 months in prison on charges related to his attempt to lure a 13-year-old girl into a sexual encounter. Raymond P. Canupp, 41, of Charlotte, N.C., was also fined $3,000, and must serve three years of supervised release after he leaves prison, said Assistant U.S. Attorney Rusty Fitzgerald of Lynchburg. Canupp, who called himself "Dr. Evil" on the Internet, was caught in the BedfordCounty Sheriff's department's cyber sting operation. U.S. District Judge NormanK. Moon prohibited Canupp from owning a computer, possessing a computer, andeven being around a computer with an Internet hookup. "For instance, he couldn't go to a cyber cafe and sign on and check his e-mail like you and I could," Fitzgerald said after the sentencing. The restriction also keeps Canupp away from libraries with online services, he said.[22]

ADULTS ACCESSING PORNOGRAPHY

The majority of the incidents involved adults. There were 962 incidents of adults accessing pornography. A number of these incidents described adults accessing material, such as bestiality, that could fall under obscenity laws. On twenty-five occasions, library staff reported seeing patrons accessing material the librarians themselves described as obscene. Again, even though accessing and displaying obscenity is a crime, it appears that in none of these incidents were police called. Porn surfing by adults has created such a hostile environment that some patrons no longer feel comfortable in the library, as these three letters from incident reports indicate:

We must also consider that the library should not become a "hostile environment" where patrons must guard against accidentally seeing something obscene. The privacy screens only blot out so much. I still recall how uncomfortable I felt six months ago when a younger teenager nervously watched me and everyone else who had walked past him and the computer he was using. Not comprehending his concerned look, I looked back at him and inadvertently saw the word CHEERLEADERS scroll across the screen, and then an image started to appear. I walked on, still being watched. I felt like I was somehow an intruder. Suddenly, after forty years of going to the library, it didn't seem such a safe and friendly place anymore.

—Sno-Isle Library System, Marysville, Washington

I am writing a letter expressing the fact that the public library has now become completely unusable for me and my family. My husband and I went into

the public library in Silverdale to look at some house plans on the Internet. I was shocked to look over and see the man next to me looking at pornography. Right in the middle of our public library a man was watching sexually explicit acts. My children will never enter the library again until there is some kind of blocking on this. I will never vote for another library levy again because it is now unusable to me. My children are 8, 10, 12 and have used the library for years. But not again.

—Kitsap Regional Library, Bremerton, Washington

Is there any way you could move the Internet stations outside of the 4th floor study rooms? I am a student who studies here 5 days a week and almost daily the station is occupied by 1 or more men looking at pornographic and violent scenes on the Internet. These men are occasionally loud and they spend time staring into the study rooms while printing out pornography. I'd feel very uncomfortable if the door didn't lock and feel it necessary to bring a cell phone in with me every day.

—Denver Public Library

Library staff also reported they felt these conditions were creating an unsafe or unpleasant work environment, as these staff memos to supervisors show:

Since we do not have a filter system, we do have patrons that pull up pornography, and I tell you, I hate it. I don't care if someone chooses to look at pornography, or to not use that term, nekkid people having sex on the computer screen, in their own home, but please don't expect me to see it in my workplace. It really affects me when I have to go tell someone to remove that site from their screen

because it is against policy. I don't mind telling them, but I end up getting a close up view of what they are looking at.

—Public Library of Charlotte and Mecklenburg County, North Carolina

I know this is not the first time I have expressed this, BUT I feel a need to express myself on this issue again. I am personally offended having to work in surroundings where pornography is openly viewed. Today I was photocopying the time sheets and I had a full view of the Internet workstation and could very clearly see 10 feet away what was being viewed. The privacy screens do not work from straight on. They only omit a sidelong view. I thought the info from Project Hope was very interesting in the Commission packet. I especially agree with their points on workstations in the children's area. Thanks for letting me vent.

—Sonoma County, California, Library

Tonight at 5:05 p.m., I confronted a man named___ on Internet #2. He was attempting to hide the screen he was viewing by pulling down the "Please Sign in at Reference Desk" sign, and peeking under. I met his gaze, looked at the screen and told him he needed to log off that terminal. There were over 40 windows of pornography open, and I told him to close them. Up at the desk, I informed him that he was no longer able to use the Internet in the library, as he had violated the policy. . . . I'm tired of confronting these men, and I'd be happy to put filters onall PCs.

—Irdell County, North Carolina, Public Library

Other staff memos and incident reports also depict uncomfortable librarians:

> Viewing pornographic sites including bondage—naked women in chains. When spoken to, he shut down the site to a point where we couldn't back screen into sites. Jennifer complained that sites made her uncomfortable as she was using the other workstation.
>
> —Saint Charles, Illinois, Public Library District

> Patrons are viewing pornography and 1 man took great joy in embarrassing a staff member by leaving a picture of 3 women having sex on the screen and then calling her attention to it. It appears to be the same little group of people who are doing this. The material they are pulling up ranges from the average Playboy centerfold to explicit photographs of genitalia or people having sex. There are also photos of women in degrading situations.
>
> —Kansas City, Kansas, Public Library

> Type of Incident: Verbal/Sexual Harassment Date of Incident: Ongoing ___began using Netscape about 3 or 4 weeks ago. He tries to engage in conversation and frequently turns around and looks at me. He found out my name and calls me on a first name basis. He's asked where I live and I didn't tell him. What makes me particularly uneasy is I have to lean over to log him back on. A few times I've noticed him viewing partially clothed women on Netscape, which adds to the awkwardness. . . I'm not going to work the desk when he's there. Claudia and I have discussed this and we have discovered that Mr. ___ is also bothering other

> staff discussing the "only soft-core" pornographic pictures he is printing out. We are trying to reschedule Claudia's hours so she can avoid him.
>
> —Harford County, Maryland, Public Library

Finally, a group of forty-seven librarians and other library employees of theMinneapolis Public Library published this letter of protest in the *Minneapolis Star Tribune*:

> Every day we, too, are subjected to pornography left (sometimes intentionally) on the screens and in the printers. We do not like it either. We feel harassed and intimidated by having to work in a public environment where we might, at any moment, be exposed to degrading or pornographic pictures.
>
> While the American Library Association (ALA) and our Minneapolis Public Library administration have taken the firm stand that restricting Internet access in any way is unacceptable censorship, most of us working directly with the public disagree. The issue is not one of intellectual freedom, but rather whether obscene material should be publicly displayed. If a *Penthouse* magazine cover must be kept out of public view in a grocery store should not the same principle apply in a public library?
>
> Compromise solutions do exist, and are being used successfully at other libraries. Sophisticated filters could provide intelligent monitoring on those terminals in high access areas of the library.
>
> Contrary to the "official" line of the ALA, filters can be designed to allow searching of topics such as

"breast cancer," while at the same time blocking most pornographic sites. And for patrons wanting unrestricted access, a number of nonfiltered terminals could be located in a less-traveled area of the library. With such an arrangement no one's rights would be violated.

Libraries across the country are coming to the realization that they must deal responsibly with the problem of Internet pornography, or permanently lose patrons . . . .

At our reference desks we hear numerous complaints, often from parents with children or teenagers in tow, and many say they are not coming back unless the situation is improved. Yet letters and calls to our director and to the Library Board have gone unheeded.[23]

Some urban public libraries report that their Internet stations are almost taken over by porn surfers, as this news story shows:

> In the Los Angeles Central Library, for instance, the machines are regularly steered to online photos of naked women, digitized videos of sex acts and ribald chat-room discussions. A few patrons even use stolen or made-up credit card numbers to visit pay-per-peep porn sites, according to a browser familiar with the scam. Despite a 30-minute time limit on Internet use at the Los Angeles Library, for example, legitimate researchers sometimes have to wait in line because the machines are tied up by people perusing personal ads or X-rated chat rooms. One of the sex browsers, an 18-year-old college student who declined to be identified (we'll call him Patron X), says he and at least half a dozen

> friends—plus assorted businessmen and "street people"—routinely cruise the Central Library Internet for porn. That last part, computer-savvy homeless people, might seem hard to imagine, but Patron X says they're "really good at this. . . . We trade secrets." One of the most prized tricks: finding Internet sites that post credit-card-number formulas that can be used to get into live-action Web sites where customers must pay up to $10 a minute to type instructions to a stripper and watch her perform as requested.[24]

There were thirteen incidents where library users were engaged in public masturbation. Nine of these were adults, and four were children. (For details, see the previous section on "Children Accessing Pornography.") Most of these incidents would violate state laws against indecent exposure or public lewdness. Once again, police were seldom called.

The Broward County, Florida, Library recorded four separate incidents of public masturbation, and only saw fit to bar a single user from the building. The records detail the following occurrences:

> Masturbation while viewing porn sites. Main Library—RIS (3rd floor). Fort Lauderdale Police Officer on the scene. Sergeant___ approached me about a young man using the computers who was viewing porn sites. Patron had been escorted out the library earlier this week by an officer(?). I approached the young man to investigate the report. The young man was sitting at the computer masturbating. I called his attention to his action and he instead continued. Sergeant ___ then told him to leave. Sergeant ___ warned him not to return to this library or risk being arrested for trespassing.

Sgt. ___ told him not to come on the property as well.

I was coming back from a break at 3:45 and ___ informed me that she had just called security due to an incident with a patron. ____ said that as she was escorting an elderly lady to the medical reference index table, she saw this young man watching a Java script movie of a man masturbating. ___ asked him to get off the web site. She went back to check a second time and she said the patron this time had his hands in his pants and continued to be in the unauthorized web site. Security escorted the patron outside the building. The defendant was given a verbal trespass warning on July 9th, 1998 by this officer after being asked by library staff to leave the library after he was observed looking at sexually explicit material and at the time of contact he appeared to be fondling himself. Subject had at that time his pants unbuttoned which was observed by librarian. Subject ___ continually re-enters library and did so today and was subsequently arrested.

Other library staff reported similar masturbation incidents:

This man is a regular user of Internet IP station where he views sites that feature female nudity. Frequently this man places his hand in his pants and has been observed doing this during the past several weeks. Today I approached him and asked that he not place his hand in his pants, stating that it was inappropriate behavior. I asked if he understood what I was saying—he shook his head "yes" but made no other communication.

—Highland Park, Illinois, Public Library

Just after we had opened a patron wanted to use the reference dept superstation. I walked over to the computer and noticed a condom lying right by the keyboard. It was not in a package and appeared to have been used. I had worked the evening before and had been the one to shut down the computer. If the condom would have been there then, I'm sure I would've noticed. I grabbed a handful of tissues and picked it up and threw it away. Then I sprayed cleaner on the area and wiped it up and apologized to the patron who had witnessed the whole thing.

—Kansas City, Kansas, Public Library

A regular customer told me he was working on computer #3 and the man next to him at #2 was masturbating. I approached the person and said we had a complaint and please remember that you are in a public place where the nude pictures on the screen might offend others. Person left a few minutes later.

—Ann Arbor, Michigan, Public Library

As I was walking in at the start of my shift, the librarian on duty took me to the back to tell me that the person we caught masturbating before was here and doing it again. I walked around the computer stations and noticed patron had a pornographic image up on the screen and was looking around very nervously. After watching for a few minutes I could see movement of the left hand which appears to be masturbation. So I approached patron and let it be known that that kind of behavior is against the library rules of behavior and that the library will not tolerate it. I told patron to leave and not to re-enter

for another month. I took acopy of library ID and handed patron a copy of the rules of behavior.

—Ann Arbor. Michigan, Public Library

Today one of our long time porno viewers got out of hand. He was viewing some porno and masturbating. J.____ and I both agreed—it was obvious in many ways. Marlene ___ advised me to call after we discussed it. 6 month T.W. issued—no further incident.

—Orlando, Florida Public Library

This Indiana patron filed a similar complaint:

I have seen a man bring up teen porn with pictures of totally naked guys on the screen and rub himself in the genital region while viewing this. Children from the age group of 7 on up were in the Reference Dept during this time, including my 2 daughters. This incident happened 11/5/98 between 7–8 PM. I informed the librarian at the desk and she then informed the man that he had to get off of the Internet. I have seen this same man bring up Internet sites with pictures of naked men on other occasions.

—Michigan City, Indiana, Public Library

THE EXTENT OF THE PROBLEM

How extensive a problem is the viewing of pornography in public libraries? This is a difficult question to answer, because no scientific studies have ever been conducted addressing what public library patrons access on the Internet. When the author testified before the National Commission on Library and Information Science in December 1998, he requested that both the National Commission and the ALA conduct such studies.[25] The request was ignored.

The 2,062 documented incidents in this report only tell a small part of the story. Only 29 percent of the public library systems in the country even responded to requests for information about the use of pornography, and these reports include only those incidents for which there was documentation that the library was willing to provide.

Actual measurements of Internet access in public libraries strongly suggest a much bigger problem than is reflected by the incident reports themselves. Internet access log-files from public libraries suggest that between 0.5 percent and 2.5 percent of public library Internet access is pornographic. Five public libraries took actual sampling data of what library patrons were accessing, based on logs generated by filtering or monitoring software. Three of these libraries also recorded the number of incidents, defined as a unique Internet session where a patron accessed or attempted to access blocked material. For a complete discussion of how this data was gathered and analyzed, see Appendix A.

Public Library	Number of Annual Incidents	Percent of Sites Classified as Pornographic
Chicago Public Library	N/A*	5.00
Tacoma Public Library	1,764 (actual)	0.95
Cincinnati Public Library	30,159 (attempted)**	0.53
Kalamazoo Public Library	N/A*	0.50
Dayton Public Library	14,358 (actual & attempted)***	0.36

• Gathered using monitoring software. No actual filtering took place.

•• Based on a 52-day sample. All recorded accesses were blocked.

••• Adults may override the filter. It is unknown how many blocks were overridden, or the content of the sites blocked.

The wide variation among libraries is almost certainly the result of different polices and procedures. The Chicago Public Library has unfiltered, unmonitored Internet access from workstations equipped with privacy screens. The Cincinnati Public Library has completely filtered workstations with no privacy screens and a monitoring policy. Tacoma and Dayton have "partial filtering." Dayton allows adults to override blocked sites; Tacoma displays blocked sites, but deletes all images. Kalamazoo has a monitoring "tap on the shoulder" policy.

Estimating the percentage of Internet use devoted to pornography in public libraries nationwide is problematic based on this sampling, for a number of reasons. The sample size, five, is small and is composed disproportionately of urban libraries. Urban libraries are thought to have higher incident rates because of the greater degree of personal anonymity than in smaller communities. Three of the five (60 percent) have partial or total filtering, compared to just 15 percent nationwide.[26] Total or partial filtering obviously decreases the number of incidents.

Kalamazoo, Michigan, probably comes the closest to representing a typical public library. Located in the Midwest, it serves a medium-sized population (116,000) and has a "tap on the shoulder" policy where porn surfers are instructed to stop if seen. The percentage of pornographic web sites accessed (0.5 percent) may be

typical for similar libraries.[27] Other libraries, like Chicago, employ "privacy screens," which no doubt encourage porn surfing, and likely record much higher rates, such as Chicago's 5 percent. These urban libraries with lax Internet policies make up a large chunk of the nation's thirty-nine thousand public library Internet terminals.[28]

Therefore, an estimate of between 0.5 percent and 2.5 percent of Internet use in public libraries is probably for pornographic purposes. This might sound trivial, and indeed the Chicago Public Library even stated that its own pornography rate of 5 percent "allows us to paint the far-right agenda as much ado about not very much."[29] Yet when one considers--based on state statistics of annual Internet sessions—America's public libraries had approximately 82 million Internet sessions last year, the problem is not trivial.[30] This would indicate an annual incident rate of between four hundred thousand and 2 million.

This suggests massive underreporting of incidents, and indeed comparison of the number of incidents written in incident reports and patron complaints to

incidents recorded in log files strongly supports this conclusion:

Library	Number of Written Incidents*	Number of Annual Log Incidents
Cincinnati, Ohio**	14 (Since January 1996)	30,159 (attempted)
Dayton, Ohio***	0	14,358 (actual & attempted)
Tacoma, Washington	8	1,764 (actual)

* An *incident* in a library computer log is defined as a single unique Internet session.

** Based on a 52-day sample. All recorded accesses were blocked.

*** Adults may override the filter. It is unknown how many blocks were overridden, or the content of the sites blocked.

* * * * *

THE SOLUTION

The nature of the incidents and their volume speak for themselves. No further commentary is needed to highlight the seriousness of the problems open access to obscenity, child pornography, and material harmful to minors is causing in the nation's public libraries. It is to be hoped that this report will finally move the discussion beyond "Is there a problem?" to "What is the solution?" Public libraries have attempted a number of ways to address the pornography problem, but practical solutions revolve around picking one of two options: monitoring patrons or filtering Internet access.

WHY CURRENT INTERNET POLICIES DO NOT WORK

Most public libraries have an Internet policy. These policies range from terse statements about the library not being responsible, to detailed rules of behavior. A

common policy is the so called "tap on the shoulder" policy, where library staff monitors use and gives a "tap on the shoulder" to anyone seen viewing pornography. As these library staff incident reports illustrate, this leads to a game of "hide and seek" with porn surfers:

> He's here at the Internet! Just wanted to alert you. Someone said that he's getting quite slick. He goes back and forth between innocuous and offensive screens quickly if he thinks someone is looking. And he doesn't appreciate librarians behind him.
>
> —St. Louis County, Missouri, Library

> I just closed out another computer with a long list of porno sites. My problem with this man is that he always comes at lunchtime and goes to one of the computers down on the end (6 or 7). I noticed once before that he'd been viewing porno, so I tried to catch him today. But he knows how to toggle out by the time I get all they way down there. If I stand at a computer nearby he watches me until I leave. Then (after he leaves) I find this string of "objectionable" sites. Because our schedule varies, I'm not usually assigned in here at lunchtime. Should I pass this info along to the rest of the staff (or to the lunchtime person) so someone can try to catch him? Or should I consider this confidential information? (I hate having to deal with this stuff.)
>
> —Medina County, Ohio, District Library

> Reported that she had been working in a study carrel near the Internet terminals for approximately 2 hours. During that time she witnessed a male child, approximately 11 years in age, accessing adult-oriented web sites at Internet station #3.

When she would walk past him, he would quickly switch to another screen. The patron reported having seen staff stroll past a couple of times.

—Skokie, Illinois, Public Library

I found him looking at a site titled "Farm Sex." As I approached, he must have sensed my coming because he clicked out. I told the reference desk what I saw and as I walked back toward the machine on the screen was another "Farm Sex" site with a photograph of a woman lying in the hay legs spread apart. When I got closer, I heard him mutter "oh my gosh." I told him that we had a talk yesterday about this same subject. He kept saying he didn't know how he got to these sites. After he left I looked in history and the site he was looking at was *www.wilma.farmsex.net* with several web sites listed beneath. This seems like a big waste of time for us to constantly monitor someone's Internet session for inappropriate material, especially when the sign says "Research Only." In my opinion, if we see someone looking at things that are not research related, they should not be using the machine.

—Davis County Library, Farmington, Utah

While police more often were called for the most serious type of crimes, such as attempted molestations,

nearly all other crimes went unreported, as the chart below illustrates:

Crime	Number Documented	Number Reported to Police	Percent Reported to Police
Accessing Child Pornography	41	5	12
Accessing Obscenity	25	0	0
Exposing Children to Porn	106	0	0
Public masturbation fondling	13	1	8
Total	172	6	3.5

Often sexual perpetrators in libraries do face consequences for their behaviors, but in comparison to arrest, they are trivial, as these library staff incident reports illustrate:

Viewing pornography. __ reported him to me. He said he had just clicked there. I was about to believe him when a print of a very inappropriate picture came out of the printer. I then looked at the stack he printed. All were of pornographically obscene subjects. I confiscated and tore them up. Please talk to and ban for 30 days.

—Rockford, Illinois, Public Library

Offense by patron displaying material reasonably construed to be obscene. 2nd offense = banned for 60 days. 3rd offense = banned forever.

—Delphos, Ohio, Public Library

_____ was in on Saturday afternoon. Enclosed are cover sheets of what he was viewing on the Internet

and printing (*www.hotpeep.com, www.bizar.com*). Not only was he viewing inappropriate web sites, but he was doing so while sitting next to a girl who was about 11 years old. I explained to him the policy and asked him if he thought what he was looking at was appropriate viewing for the young girl sitting next to him. He did not answer.

—DeKalb County, Georgia, Public Library

Patron who had been previously warned about using the Internet to access pornography came in at about 12:45. Staff began to keep an eye on what he was doing and at about 1:45 I saw him looking at child pornography. I told him his search was inappropriate and that I was going to need to file an incident report about this. He said "OK." The name he gave me was ___. (I asked him to spell the last name.) He then immediately left the building. . . . Could find no patron record under the name he provided.

—Salt Lake City, Utah, Library

We reprimand maybe one person a month [for viewing obscene material]. Two reprimands and your Internet privileges are revoked for a month. Three and they're revoked permanently. We've only had to do this twice, and both the patrons were adult men who were accessing kiddy porn. This is illegal, so we probably should have called the cops.

—Tuscarawas County, Ohio, Public Library

Sexual perpetrators who frequent public libraries probably are aware that they run a low risk of apprehension in when 96.5 percent of the time the worst consequence they face if caught committing their criminal acts is being escorted from the library.

While some public libraries fail to inform the police of more serious crimes, one library saw fit to have this woman arrested, as reported in *American Libraries*:

> Beverly Goldman, 24, was arrested January 13 for failing to appear in court after being charged with not returning seven children's books and videotapes she had checked out more than 16 months ago from Clearwater, Florida Public Library. Before taking her into custody, police allowed Goldman, who is seven months pregnant, to see her five- and six-year-olds off to school. She spent eight hours in jail before friends and relatives posted bail, and the library dropped charges after Goldman's family promised to pay the $127.86 she owed for the items, according to the January 14 *Miami Herald*.[75]

FILTERING SOFTWARE

Filters are much maligned because of their reputation for supposedly blocking innocent sites, particularly AIDS sites, gay sites, and breast-cancer sites. Yet the evidence suggests that the number of sites blocked accidentally by filters is extremely small. Several reports by the group Censorware Project each revealed only a few dozen or hundred wrongly blocked sites, out of millions of individual web sites.[76] A 1998 survey of twenty-four public library administrators who used filters found that public libraries that filter receive only 1.6 complaints per month about wrongly blocked sites.[77] The Memphis Public Library recently installed filtering software, and after several months reported problems were "a nonevent":

> In a report given to the commission's education and libraries committee, [City Librarian Judith] Drescher stated, "Since installation, the library has

received no requests from the public to review and block a site. Library staff has submitted five sites for review, all of which were blocked."[78]

Until now, there had been no actual data gathered from filters in public libraries and analyzed to examine the nature of web sites blocked from library patrons.

The data obtained from the Tacoma, Washington, Public Library and the Public Library of Cincinnati and Hamilton County support the other evidence gathered by the Censorware Project and Filtering Facts in the conclusion that the amount of innocent speech being blocked is indeed extremely small. (See Appendix A.) In Tacoma, 1,853 web-page accesses were inappropriately blocked out of 2,510,460 web pages accessed, or 0.07 percent. In Cincinnati, only 1485 files were inappropriately blocked out of 14,376,211 total files accessed, about 0.01 percent. Clearly, all the evidence to date indicates that the problem of filters blocking legitimate information is indeed extremely small.

Opponents of filtering sometimes argue that children using filtered Internet access will be at a competitive disadvantage because they will be denied crucial information. Children will become pregnant and catch venereal diseases because they were denied sexual education information. Gay teenagers will commit suicide because they will be unable to reach out to fellow gay teens on the Internet. Yet millions of children are required to use filters in public school settings, and there is not one confirmed instance that any of these things have happened.[79] Of all the millions of children who rely on filtered Internet access in the home and in school, no child has committed suicide, become pregnant, contracted a disease, flunked a class,

or even gotten a bad grade on a paper because they were required to use a filter. There is not one shred of evidence to suggest that any person has ever been meaningfully harmed in any way by being required to use filters.

All of these imaginary problems are in contrast to the many real, well documented incidents of real harm being inflicted on children by unfiltered Internet access in public libraries. Children are being accosted with porn, propositioned by pedophiles, and having their innocence stripped away even further in an already too grown up world. The failure of librarians to control these problems supports the appropriateness of laws requiring filtering software.

APPENDIX A

LIBRARY LOG ANALYSES

TACOMA PUBLIC LIBRARY

The Tacoma, Washington, Public Library supplied one-year's worth of blocked and unresolved web site accesses in 1,020 printed pages covering the period of July 1, 1998, through June 30, 1999. Analysis revealed 1,764 individual users sessions where patrons accessed commercial pornography sites. Patrons accessed 22,364 partially blocked websites, which accounted for .9 percent of all web pages. Nonsexual sites and *DejaNews*, a mega-site with a significant amount of pornographic content, being blocked accounted for 0.07 percent. In other words, 99.93 percent of the time the filter functioned properly.

Data Supplied by the Tacoma Public Library. The Tacoma Public Library has an unusual form of filtering. All access is screened by the filter, Cyber Patrol. But rather than placing a message on the screen saying "blocked by Cyber Patrol," the library has a customized web browser that launches a text-only browser when a blocked website is encountered, to allow the viewer to read the text.

A sample entry in the Tacoma log looks like this: IC102 1999/06/15 15:51:51 16:11:54 PID BLOCKED. The first number, IC102 represents the workstation number. The second represents the date, the third the time that the logged session began "15:51:51," the fourth the time of the blocked access, "16:11:54," the message BLOCKED, and finally, the address of the website.

This information was used to determine the number of blocked sites, the number of separate incidents of accessing pornography, and the content of the blocked sites.

Number of Separate Incidents. Each page of the log files was scanned to identify separate incidents of patrons viewing pornography. A "separate incident" was defined as a unique user session from a unique station number, separated by at least two hours from any previous incident on the same workstation. Only commercial pornography sites were examined, so this left out hundreds of sexually related web sites that were not commercial pornography sites. There were a total of 1,764 of these incidents, compared to eight incidents for which there was written documentation, meaning that for every documented incident in Tacoma, more than two hundred went unreported.

Number of Blocked Web Sites. The number of blocked web sites was determined by taking a random sample of ten pages from each month of logs, for a total of 120 pages out of 1,020 or 11.76 percent. Based on the sample, 22,364 web pages were blocked during the year out of 2,510,460 total web pages accessed, or 0.9 percent.

Content of Blocked Web Sites. The bulk of the blocked sites were outright commercial pornography sites, and sexually explicit sites either not selling anything or featuring simple nudity or explicit sexual discussions. The nonsexual sites were composed mostly of one web site, *www.dejanews.com*. The blocking of *DejaNews*, a complete archive of Usenet posting has been controversial. The makers of Cyber Patrol claim they must block the entire site in order to block the numerous and explicit sexual discussion groups where pornographic pictures are exchanged. Apparently the library thought it too valuable a resource to completely block, as it disappears from the block logs in October, when the library apparently unblocked it.

	Commercial Pornography Sites	Sexually Explicit Sites	Dead Links	Nonsexual Sites and *DejaNews*
Number	12,385	6,180	1,947	1,853
Percent	55	28	9	8

CINCINNATI/HAMILTON COUNTY PUBLIC LIBRARY

The Public Library of Cincinnati and Hamilton County, Ohio, supplied fifty-two days' worth of computer server logs that recorded attempts to access web

sites blocked by the filter, "Bess." From July 27, 1999, to September 16, 1999, the logs recorded patrons attempting to access files, including images, from blocked web sites 76,570 times in at least 5,055 separate incidents.

Analysis of the blocked web sites indicates this represents at least 4,297 separate incidents where patrons attempted to access approximately 14,878 pornographic web pages over fifty-two days. Further analysis of the content of the blocked web sites showed that only 2 percent of the blocked sites were nonsexual in nature, and that this accounted for only 0.01 percent of all web accesses—or that 99.99 percent of the time the filter did not block innocent sites.

Data Supplied by the Cincinnati Library. The library system employs a filtering server computer that centrally handles all Internet requests. The filtering server is called Bess and is supplied by a Seattle company, N2H2. Every day Bess generates a group of summary statistics describing total Internet activity, along with attempts to access blocked sites. The summary includes nineteen different statistics, such as "Search Engine Requests" and "Total Bytes." Five of the nineteen statistics were examined to determine the amount of Internet requests that were blocked by the filter, the content of the requests being blocked, and estimations of how many web pages and individual

sessions this represented. An abbreviated example of a daily server log is shown below:

> **Bess Proxy Server Statistics for Thursday, September 16, 1999**
> Total Requests: 308,870
> HTML Requests: 77,734
> Total Blocked Requests: 849 (0.27 percent)
> Unique Blocked Clients: 115
> **Top Thirty Blocked URLs:**
> (39 / 5 percent) *stats.hitbox.com/buttons/hitbox.com0.gif*
> (28 / 3 percent) *www.cyberlounge.com/dc.gif*
> (21 / 2 percent) *www.partyhouse.com/banners/kara/kasmod2f.gif*
>
> **Top Thirty Blocked Domains:**
> (82 / 10 percent) *stats.hitbox.com*
> (79 / 9 percent) *www.partyhouse.com*
> (38 / 4 percent) *www.xxx500.com*

- *Total Requests* represents the total number of all web-related files, such as html pages, as well as *gif* and *jpg* image files requested by Internet users.
- *HTML Requests* represents the total number of html files, or individual web pages, requested by Internet users. The ratio of *Total Requests* to *HTML Requests* was 3.87.
- *Total Blocked Requests* represents the total of all Internet requests, including images, blocked by the filter. This indicates that *Total Blocked Requests* exaggerates the total number of web pages blocked by 3.87 times.

- *Unique Blocked Clients* represents the number of individual workstations from which Internet requests were blocked. A minimum number of unique user sessions where there were attempts to access blocked files can be drawn from this figure.
- *Top Thirty Blocked URLs* represents the thirty most often blocked Internet files. The majority of these blocked files are *jpg* and *gif* image files. The numbers to the right of the URL of each blocked file, such as *(39 / 5 percent)*, represent the number of times that file was blocked on that day, and the percentage of total blocked files it represents.
- *Top Thirty Blocked Domains* represents the thirty most frequently blocked Internet domains or highest level web site addresses. This information was less useful than *Top Thirty Blocked URLs*, since the files being blocked were sometimes several directory levels down from the top of domain. For example, *Top Thirty Blocked Domains* would report the file www.angelfire.com/in2/exoticbikini/images/nl.gif being blocked as simply *www.angelfire.com*. Therefore, the content of *Top Thirty Blocked URLs* was analyzed rather than *Top Thirty Blocked Domains*.

Summary of the Statistics. Total numbers for four of the statistics for each of the fifty-two days were compiled in a manner displayed in the table on the next page:

Total Requests	HTML Requests	Total Blocked Requests	Percent Blocked	Unique Blocked Clients
14,376,211	3,717,383	76,570	0.53%	5,055

Total Requests were divided by *HTML Requests* to determine the ratio of total requests to actual web pages, 3.87. Applying this ratio to *Total Blocked Requests* indicates that approximately 19,837 actual web pages were blocked during the fifty-two days.

The 5,055 *Unique Blocked Clients* means that on at least 5,055 separate occasions users were blocked from accessing files. This almost certainly understates the number of separate occasions, since there were likely multiple incidents from the same workstation on the same day.

Each of the 1,500 URLs supplied in the *Top Thirty Blocked URLs* were analyzed for content. The total number of occurrences of blocked URLs that could be identified through the *Top Thirty Blocked URLs* statistic was 35,701. This represents 47 percent of the 76,570 *Total Blocked Requests*, and there is no reason to assume that this does not reasonably reflect the content of all blocked accesses. The number of times each URL was blocked was added to determine the totals for each content area. Some URLs were blocked

hundreds of times. The complete data is contained in this table:

	Commercial Pornography Sites	Sexual Sites	Dead Links	Undetermined	Nonsexual Sites	Total
Number	26,695	3,381	2,254	2,639	732	35,701
Percent	76	9	6	7	2	100

Analysis of Blocked Websites

Content of Blocked Web Sites. Every URL listed in the *Top Thirty Blocked URLs* statistic was checked for content. There were 1,500 separate entries, although a number of the URLs were listed multiple times. Each URL was examined, along with the main domain home page and the immediate directory web pages. For example, *www.partyhouse.com/banners/kara/kasmod2f.gif* was examined, along with the main

domain home page, *www.partyhouse.com*, and the immediate directory web pages in *www.partyhouse.com/banners/kara*. A determination was made as to which category the blocked portion of the web site belonged.

Commercial Pornography Sites were sites that: 1) featured "Adults Only" type warnings somewhere on the site, and 2) were engaged in selling pornographic photographs, text, or chat rooms. Examples of this type of site were *xx.fsn.net*, "The Fetish Sex Network," and *www.slut-o-rama.com*.

Sexual Sites were either non-commercial pornography sites, sites that depicted nudity in a casual or artistic way, or sites that featured explicit sexual discussions. Examples of this type of site were *energy4life.com* and *www.chocolatebikini.com* both of which featured mild nudity.

Undeterminable URLs were portions of sites that served images or banners to meta-sites, and the directory or sub-page where the image was serving was notdeterminable. The majority of these URLs were from the meta-site *www.geocities.com*, which features thousands of individual user home pages, and serves these sites with image files such as *www.geocities.com/toto?s=19190030*.

Dead Links were sites or relevant portions of sites that returned a "not found" or "error" message.

Nonsexual Sites were sites that had no explicit sexual content at all. This included sites such as *www.dylanology.com*, a site devoted to Bob Dylan and *www.defendoor.com*, a door security product.

Number of Incidents. Because the logs do not link each access with an individual workstation, it is not possible to precisely determine how may separate incidents occurred. However, Bess records the *Unique Blocked Clients* statistic for the number of individual workstations where a blocked attempt occurred. The total number of *Unique Blocked Clients* for the fifty-two days was 5,055. Assuming that at least 85 percent of blocks were sexual or from commercial pornography sites, this translates into an estimate of at least 4,297 separate incidents where patrons attempted to access pornography. Since more than one session involving an attempt to access a blocked site almost certainly occurred on the same workstations, this number understates the total number of incidents.

Conclusions. The sample of 47 percent of all blocked URLs analyzed revealed only 732 times where a patron encountered a wrongly blocked site. This would translate into about 1,485 wrongly blocked accesses out of 14,376,211 total accesses, about 0.01 percent. What this means is that 99.99 percent of the time the filter blocked no innocent sites, and that the chance of a patron encountering a wrongly blocked site is about one in ten thousand.

Patrons at the Public Library of Cincinnati and Hamilton County made significant attempts to access hard-core pornography and obscenity through the Internet. While 0.53 percent of all web accesses may not sound significant, this translates into thousands of separate incidents in only a two month period, many of which very likely involved the illegal transmission of obscenity.

The fact that during the testing the library had complete filtering on all terminals and no privacy screens certainly decreased attempts to access pornographic web sites. It is worth noting that another large urban library system in the Midwest, the Chicago Public Library, performed a similar test during a similar period, the summer of 1999. The Chicago Public Library has unfiltered access and privacy screens, and its logs show 5 percent of access to be pornographic, or ten times the levels recorded by the Cincinnati library.

On December 12, 1999, the Public Library of Cincinnati and Hamilton County changed its policy to allow adults to have unfiltered Internet access at workstations that employ privacy screens. One of the sites patrons attempted to access hundreds of times was *http://soiroom.hyperchat.com/rapfan*, a "Rape Fantasy" chat room. On one day alone, August 8, 1999, there were 225 separate attempts to access this site. The most likely conclusion is that all 225 attempts were made by a lone individual compulsively trying to reach the "Rape Fantasies" chat room. Assuming this individual is an adult, he is now free to use the Cincinnati library to act out his "Rape Fantasies."

DAYTON/MONTGOMERY COUNTY PUBLIC LIBRARY

The Dayton and Montgomery County Public Library supplied seventeen months worth of computer server log daily summaries that recorded attempts to access web sites blocked by the filter Bess. A total of 342 days worth of log summaries were usable. From June 4, 1998, to October 24, 1999, the logs recorded

patrons attempting to access files, including images, from blocked web sites 248,589 times in at least 14,358 separate incidents. Adults at the Dayton library have the ability by entering their patron barcodes to override the filter and look at anything they want. Unfortunately, only summary statistics were provided, so the content of the blocked web sites was unavailable for analysis, and there is no log of how often the filter was overridden.

Data Supplied by the Dayton Public Library. The Dayton and Montgomery County Public Library employs a filtering server computer that centrally handles all Internet requests. The filtering server, Bess, is supplied by a Seattle company, N2H2. Only 342 of the daily logs were usable, because many of the daily logs contained only partial information. Every day Bess generates a group of summary statistics describing total Internet activity, along with attempts to access blocked sites. The summary includes nineteen different statistics, such as "Search Engine Requests" and "Total Bytes." Five of the statistics were examined to determine the amount of Internet requests that were blocked by the filter and estimations of how many web pages and individual sessions this represented. An abbreviated example of a daily server log is shown below:

Date	Total Request	HTML Request	Total Blocked Requests
1-Jun-98	157,185	40,294	333

Percent Blocked Requests	Unique Blocked URLs	Unique Blocked Clients
0.0021	189	41

- *Total Requests* represents the total number of all web-related files, such as html pages, as well as *gif* and *jpg* image files requested by Internet users.

- *HTML Requests* represents the total number of html files, or individual web pages, requested by Internet users. The ratio of *Total Requests* to *HTML Requests* was 3.99.

- *Total Blocked Requests* represents the total of all Internet requests, including images, blocked by the filter. This indicates that *Total Blocked Requests* exaggerates the total number of web pages blocked by approximately 3.99 times.

- *Unique Blocked Clients* represents the number of individual workstations from which Internet requests were blocked. A minimum number of unique user sessions where there were attempts to access blocked files can be drawn from this figure.

Summary of the Statistics. Total numbers for four of the five statistics for the 342 days are shows below:

Total Requests	HTML Requests	Total Blocked Requests	Percent Blocked	Unique Blocked Clients
69,032,300	17,289,865	248,589	0.36%	14,358

Total Requests were divided by *HTML requests* to determine the ratio of total requests to actual web pages, 3.99. Applying this ratio to *Total Blocked Requests* indicates that approximately 62,303 actual *web pages* were blocked during the 342-day period.

The 14,358 *Unique Blocked Clients* means that on *at least* 14,358 separate occasions users were blocked from accessing files. This almost certainly understates the number of separate occasions, since there were likely multiple incidents from the same workstation on the same day.

Number of Incidents. Because the logs do not link each access with an individual workstation, it is not possible to determine precisely how may separate incidents occur. However, Bess records *the Unique Blocked Clients* statistic for the number of individual workstations where a blocked attempt occurred. The total number of *Unique Blocked Clients* for the 342 days was 14,358. Since more than one session involving an attempt to access a blocked site almost certainly occurred on the same workstations, this number understates the total number of incidents.

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ABOUT THE FAMILY RESEARCH COUNCIL

Founded in 1981, the Family Research Council is an independent, non-profit education and research organization dedicated to ensuring that the interests of the family are considered and respected in the formation of public policy. The Council works to create in the legislative, executive and judicial branches of the federal government and understanding of the overall profamily agenda. The Council also maintains an extensive educational outreach that equips individuals nationwide to address family issues and activates these citizens to influence the legislative and public policy process.

Family Research Council's Washington headquarters are located in a beautiful six-story building completed in 1996. The building houses FRC's Washington staff and includes a modern media center, colorful displays, and a gift shop. The building is owned by Family, Faith and Freedom Foundation and was built through the generosity of two dedicated families, the Princes and the De Voses of Michigan. Visitors are welcome during normal business hours. If you plan to visit us, please call us in advance at 202-393-2100 to make your time with us as pleasant as possible.

[SEAL]

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25 David Burt, "Testimony before the National Commission on Library and Information Science," December 14, 1998.

26 Charles McClure, 1998 National Survey of U.S. Public Library Outlet Internet Connectivity, figure 48.

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[D. Ex. 22A]
[Tacoma Public Library Incident Log Sample]

Exhibit 22A consists of blocked URL printouts and will be submitted in a separate lodging.

[D. Ex. 23B]

Exhibit 23B consists of web page screen shots that have been omitted and will be submitted in a separate lodging.

[D. Ex. 30]
[Tacoma Public Library Collection Development Policy (without appendices)]

#10.01
May 1982

TACOMA PUBLIC LIBRARY

Administrative Policy #10.01
Acquisition Policy

Formally Adopted by Board of Trustees on September 18, 1979

Outline

A. General Policy Statement
B. Intellectual Freedom
C. Responsibility for Selection
D. Policy by Clientele
    1. Adult
    2. Young Adult
    3. Children
    4. Disabled
E. Policy by Collection Type
    1. General Collection
        a) Fiction
        b) Non-fiction
    2. Foreign Language Materials
    3. Children's Materials
    4. Reference Materials
    5. Non-print Materials
    6. Periodicals
    7. Government Documents
    8. Maps and Pamphlets
    9. Special Collections

a) Tacoma City Archives
b) Lincoln Collection
c) Kaiser Collection
d) Genealogy Collection
e) Northwest Collection

10. Branch Library Collections

F. Policy by Format
G. Maintenance of Collection
H. Gifts

Appendices:

Appendix 1 - Freedom to Read Statement
Appendix 2 - Library Bill of Rights
Appendix 3 - Community Descriptors - A List of Sources
Appendix 4 - Freedom to View - Adopted by Board of Trustees February 17, 1981

A. General Policy Statement

The Tacoma Public Library, an agency of the City of Tacoma, operating according to the Public Library Laws of the State of Washington under the management and control of its Board of Trustees, affirms the following objectives for the selection of materials.

To select, assemble, and make available to the public informational, educational, and recreational materials; to preserve materials which possess historic interest or worth; to assist in the development of an enlightened citizenry; to encourage self-education; and to promote and provide materials necessary for an enriched personal life. Tacoma Public Library makes its materials available for the purposes named above to all persons re-

gardless of their age, sex, religion, race, origin, political views, social or economic status.

B. Intellectual Freedom

The Library subscribes fully to the American Library Association's Freedom to Read Statement (Appendix 1) and the Library Bill of Rights (Appendix 2).

C. Responsibility for Selection

Ultimate responsibility for selection of materials rests with the Library Director, operating within policies determined by the Library's Board of Trustees. The Director delegates the responsibility for selection of library materials to members of the staff.

D. Policy by Clientele

1. Adult

Adults who use the collection of materials at Tacoma Public Library are defined in age as being over 14 years old. They are men and women of all races and beliefs with widely differing tastes and needs. Materials selected for this diverse group of people include those of a recreational nature and cover the widest possible range of interests and reading levels.

2. Young Adults

Young adults (generally aged 12 through 18) will have materials specially selected to meet the particular recreational, emotional and informational concerns of this age group and will also be served from the general collection. Those materials which will help young adults

understand themselves and others, broaden their viewpoints and knowledge of the world, stimulate their curiosity, expend their reading ability and enjoyment, and guide them in the transition from children's materials to adult materials are preferred.

3. Children

Children (generally preschool through age 12) are recognized as creative, inquiring individuals with unique capacities for intellectual and emotional growth. Materials are chosen to meet their diverse interests and needs but the resources of the entire Library are accessible to them. Materials for children are selected with the realization that they are an integral part of the total Library collection and are judged by the same criteria which apply to adult materials.

4. Disabled

The individuals in this group are not able to utilize materials published in the usual format. This inability is coupled with an interest in becoming an aware and informed person and in finding sources of educational and recreational materials. The library will meet the information needs of the group to the fullest extent possible, within budgetary constraints, and will refer individuals to other agencies equipped to meet a specialized need.

E. Policy by Collection Type

1. General Collection

a. Fiction

Novels will be purchased for the following purposes:

1) To satisfy the need for recreational reading materials for persons of differing tastes, interests, purposes and reading skills.

2) To serve as educational tools and to enrich human understanding by dealing informatively with social, personal, racial, ethnic, or religious situations.

Since it is not possible to set up a standard of literary quality which will apply to all novels, the Library uses the following considerations as a guide when selecting fiction:

1) Is the novel competently written?

2) Does the novel has constructive and plausible characterizations?

3) Does the novel give an honest portrayal of the human experiences with which it deals"

4) Does the book contribute to the collection balance in regard to (a) types and styles of literature, (b) subjects treated, and (c) patron appeal?

Other selection considerations are:

5) A collection of standard and classic novels will be maintained as determined by long standing community needs and/or listing in an authoritative bibliography.

6) A collection of mysteries, science fiction, westerns and light romances will be maintained.

7) Experimental novels, while often controversial, will be considered for purchase as they reflect new trends, and styles of expression.

8) Books written about the Pacific Northwest or with the Pacific Northwest as a setting will be especially considered for purchase.

9) Books written obviously and exclusively for sensational or pornographic purposes will not be chosen, but the Library will not exclude a title because of objectionable language or vivid description of sex or violence if the author is dealing honestly and realistically with his/her theme. The Library recognizes that any given title may offend some persons; however, selections will not be made on the basis of any anticipated approval or disapproval; but solely on the merits of the work in relation to the collection, the Library's objectives, and the interest of the readers.

b. Non Fiction

The selection of circulating adult nonfiction materials will reflect the current needs, interests, and activities of the adult borrower. In addition to the materials selected which have been demonstrated to be of practical value to many adults, the Library will also select materials of a more specialized technical nature which experience has shown are required to meet the informational needs of some adult borrowers. Materials of a lighter vein are provided for entertainment purposes. This collection will contain materials of a wide variety of topics, levels of sophistication and treatment reflecting the needs and interests of the adult who uses the Tacoma Public Library.

Although the branch libraries are expected to maintain sufficient circulating materials of interest and use to their patrons, the Main Library will endeavor to act as a backup source of the entire system. To fulfill this function, the Main Library will select materials of sufficient quantity, variety and of a more specialized nature to supplement the branch collections.

Other criteria for the selection of nonfiction may include the following:

1) Purpose of item

2) Audience for whom intended
3) Reputation of the author
4) Quality of writing and visual art presented
5) Indexed in Library-owned materials
6) Insufficient material in subject area
7) Popular demand
8) Reputation of the publisher
9) Format of the material, its durability and quality of production
10) Accuracy of information presented
11) Special features in the book: Plates, Indexes, Tables, etc.
12) Not available elsewhere in the community
13) Price
14) Reviews in selection aids
15) Timelines

2. Foreign Language Collection

The aim of the Foreign Language Collection is to provide recreational and informational reading for the foreign-speaking population of the city and to make available materials to those learning a foreign language. Books selected for the Foreign Language Collection may include:

a. Classics in the original language
b. Works of significant authors, past and present

c. American classics and translations of books about American culture, literature and history
d. Materials on the history, culture and literature of the countries in which the language is spoken

3. Children's Collection

a. Primary emphasis is placed on the selection of diverse materials for all children of the community (generally preschool through age 12) which will:
    1) Make them aware of the pleasures and knowledge to be derived from the use of Library materials.
    2) Provide knowledge of mankind's history and culture.
    3) Provide materials which will assist in the development of reading skills.
b. The criteria stated in the adult selection policy apply to the selection of children's materials. These additional policies apply;
    1) Subject, vocabulary, and format must be understandable to the children for whom the material is intended.
    2) Materials which do not meet literary or production standards may be chosen to fulfill emotional needs, serve as an incentive to read or serve some other special purpose.

3) Books in series are evaluated on the individual merits of each title.

c. Duplication of titles is provided to meet demand. Adult and young adult materials may be duplicated.

d. Librarians may offer assistance, but parents or legal guardians are responsible for guiding their children in the selection of library materials.

4. Reference Collection

a. A collection of reference materials is maintained for patron and library staff use within the library. The Reference Collections will contain (but are not limited to) the following types of materials:

1) Encyclopedias, both general and specialized.

2) Handbooks and dictionaries in all the major fields of knowledge

3) Directories of people, institutions, firms and/or official bodies in all fields

4) Atlases and gazetteers

5) Statistical compendia

6) Indexes and abstracts covering both material already owned or being acquired and material not owned but available elsewhere

7) Bibliographies: National, book trade and subject

8) Biographical dictionaries of general, national or regional, professional or occupational types, with both retrospective and current coverage

9) Articles clipped from newspapers and periodicals

b. Reference materials are selected according to the same general criteria as non-fiction materials.

5. Non-Print Collection

The Library buys non-print materials in many different formats. These materials must meet the same general selection criteria as print materials with special consideration given to technical quality. In addition, each class of materials must demonstrate an appropriate use of its format. For example, slides should present information that is inherently visual in nature without needing motion to convey its message. Films should use the qualities of visual image, motion and sound in creative and informative or entertaining manner. The Library only buys non-print materials designed for school curriculum use when such materials are of interest to the general public.

Because of the special nature of non-print materials, the Library makes every effort to make appropriate equipment for their use available to the public. In cases where equipment cannot be made available for home use, it will be made available for in-Library use. Selection of equipment is based on durability, ease of operation, quality of performance,

portability, ease of maintenance and repair, reputation of manufacturer, and cost.

6. Periodicals

   a. Tacoma Public Library selects for purchase, or accepts as gifts, omit periodicals which support the recreational, informational, educational, professional and research needs of the total community. It strives to acquire those titles which will:

      1) Reflect current thinking
      2) Supplement the book collection
      3) Supply recreational reading
      4) Serve the staff as selection aids and as professional reading materials.
      5) Add to current historical or regional information

   b. Individual titles may be chosen for the following reasons:

      1) Accuracy and objectivity
      2) Accessibility of content through indexes
      3) Demand
      4) Need in reference work
      5) Representation of a point of view needed in the collection
      6) Local interest in subject matter
      7) Price
      8) Favorable reviews

7. Federal, State and Local Documents Collection

   Tacoma Public Library is a selective depository for the United States Government materials and a full depository for Washington State documents. The Library is subject to federal and state regulations which apply to depository libraries.

   Selection of items to be received from the Federal Government follows the same general principles as those for all other materials except that when possible, highly technical publications and agency publications intended for the originating agency's in-house use are not selected.

   Tacoma and Pierce County documents are of particular significance and are solicited. Documents from other governmental agencies may be collected.

   Duplicates of items of particular significance are solicited and provided to branches and, when appropriate, are distributed free of charge to the public.

8. Pamphlet Collection

   Pamphlets are solicited or purchased because they provide useful, current information at a low cost. Tacoma Public Library maintains a Pamphlet Collection to supplement the general collection.

9. Special Collections

Materials of special interest may be purchased or solicited. Special collections of the Library include:

a. Tacoma City Archives

By resolution of the Tacoma City Council, the Tacoma Public Library has been designed as the archives for "historic city documents." This status has also been recognized by the Washington State Archives in that items judged by the State Archivist as being "archival" or "potentially archival" are transferred to the jurisdiction of the Tacoma Public Library by units of the government of the City of Tacoma.

b. Lincoln Collection

The Lincoln Collection of the Tacoma Public Library is based on the Library of Marion L. Saunders, which was purchased in 1948. To this collection has been added a number of federal documents and other items about the life and times of the sixteenth president.

c. Kaiser Collection

A collection of books, maps, posters, and pamphlets on World War I is named in honor of John B. Kaiser, director of the Library from 1914 to 1924.

d. Genealogy Collection

This collection contains items of genealogical interest and local history. The collection also includes depository items from the Tacoma Genealogical Society.

e. Northwest Collection

The Northwest Collection includes books, maps, manuscript materials, photographs and other items about the history, growth, and development of that portion of North America west of the Rocky Mountains and north of California, including Alaska.

10. Branch Collections

Branch Collections contain primarily circulating materials which are supplemented by more specialized materials available from the Main Library. Branch Collections contain limited reference materials, adequate to answer most questions.

F. Policy by Format

The Library will purchase materials in any appropriate print or non-print format which may include:

1. Hardback
2. Paperback
3. Softcover
4. Large Print
5. Microform
6. Videoform

G. Maintenance of Collection

1. Weeding and Discarding

   In order to maintain a collection of value and use to the community, the following materials will be discarded: Library materials which have become worn out through use; materials that are no longer timely or accurate; materials that are of little use or questionable value; and excess copies of titles no longer in demand. All discarded materials are sold through a bid process.

2. Binding and Mending

   Library materials needing repair will be mended if it is not possible to replace them or if the replacement cost is prohibitive. Library materials needing repair which are available for purchase will be evaluated according to the Library's need. They will either be discarded, used as they are, or replaced. Unless irreplaceable and distinctively worthwhile, paperbacks will not be mended except for the repair of separated covers.

3. Replacement and Duplication

   Materials withdrawn will not automatically be replaced. The Library will purchase multiple copies of titles when a high rate of use is anticipated. Purchase in one collection type or format does not preclude its purchase in another type or format.

H. Gifts

The Library accepts gifts with the understanding that the material will be judged by the same standards of selection as those applied to the purchase of new materials. Those items which are useful to the Library will be retained. Unaccepted materials will be discarded.

The Library reserves the right to interfile gifts with other materials on the subject for the best public service.

The appraisal of a gift to the Library for tax purposes is left to the donor. The Library may provide a receipt indicating the number and type of items donated.

Funds for the purchase of a gift or memorial materials are encouraged. The responsibility for selection rests with the Library staff, although the donor's suggestions will be considered. Bookplates will be placed in each item if requested by the donor.

[D. Ex. 33]

[Tacoma Public Library Internet Use Policy]

Tacoma Public Library

Administrative Policy #10.53

Policy For Public Use of the Internet

Policy Statement

The Mission Statement of the Tacoma Public Library emphasizes sensitivity to community changes and needs, and commits the Library to the delivery of excellent services:

The mission of the Tacoma Public Library is to provide the highest quality public library services to fulfill the informational, educational, recreational and cultural needs of the citizens in the dynamic and changing community of Tacoma, which is comprised of many ethnic and economic backgrounds, and, further, to recognize changes that occur in society and to adapt these changes to the delivery of people-oriented library services.

To fulfill its mission, the Library has earned a reputation for adopting new information technologies into its information services program. The Library views the Internet, a vast and interconnected network of information providers, as an information technology with the potential to expand the universe of information available to the people of Tacoma far beyond the reach of the Library's own collection. Furthermore, the Library believes that it is essential that the Internet information resources be integrated with the other information systems of the Library. The Library also recognizes that the very nature of the Internet is evolving rapidly and, therefore, the Board of Trustees

of the Tacoma Public Library intends this policy to be updated and amended from time to time as may be necessary.

1. Responsibility of Users

The Internet is global in scope, with a highly diverse user population and information content. The Internet is an unregulated medium and the Tacoma Public Library has no control over any part of the Internet beyond its own homepages. Because the Library is not able to exercise the same selection criteria to Internet resources that it applies to materials held in its collections, the Library may provide hardware and software mechanisms to restrict access to specific sources determined by Library staff to be inconsistent with its mission and collection development policies. Some information content on the Internet may be offensive to some people and some content may be illegal, out-of-date, or erroneous. It is the responsibility of the user, therefore, to determine what materials are appropriate and suitable for his or her use.

Parents may be concerned about the use of Internet Information services by their children. The Library affirms the right and responsibility of parents to supervise their children's use of library resources, including Internet services. The Library will make available to parents upon request such publications as "Child Safety on the Information Superhighway" as a guide to children using the Internet.

The library also recognizes that parental control and guidance cannot always be provided with regard to unintended viewing of images displayed in public places; that data collected and analyzed by the Library

evidences the potential for considerable and pervasive intended and unintended display of sexually explicit images at Internet terminals in the Tacoma Public Library; that the Library has a compelling interest in preventing the display of sexually explicit images in view of children at the public Library; that the use of partitions and other devices to shield Internet terminals will only reduce the filed of view while still allowing the open public display of sexually explicit images; that limited filtering will be more effective in preventing public display of such images in the library; that the use of the library internet terminals without implementation of a filtering policy will carry with it a significant danger of exposure of children to such sexually explicit images. The Library, therefore, has implemented hardware and software mechanisms to restrict access to specific sexually explicit images, which hardware and software are designed to minimally intrude upon the rights of persons to exercise their constitutionally protected right to disseminate and receive speech.

By making use of Internet services at the Tacoma Public Library, patrons agree to abide by the provisions of this "Policy for Public Use of the Internet."

2. Levels of Service

A. In-Library Public Use

Access to a variety of Internet services, including Gopher, the World Wide Web, and connections to the catalogs of other libraries, is presently provided at selected terminals within the Library as a supplement to the Library Catalog and the other electronic information resources of the Library. The Library may

offer other Internet services as deemed appropriate by the Library. Such additional services must meet the informational and service goals of the Library and it must be technically feasible to offer such services in a secure and cost-effective manner. The Library will not offer chat, electronic mail or gaming. At the beginning of each Internet session, the user will indicate assent to a "Conditions of Use" statement which appears on the screen and which is reproduced below.

"Conditions of Use"

(This "Conditions of Use" statement will be shown on the screen when user logs on to selected Internet services. Acceptance of the conditions will be indicated when the user clicks the "I agree" button.)

The Internet is global in scope with a highly diverse user population and information content. The Tacoma Public Library has no control over any part of the Internet beyond its own homepages and is not able to exercise the same selection criteria to Internet resources that it applies to materials held in its collections. Some information content on the Internet may be offensive to some people and some content may be illegal, out-of-date, or erroneous. It is the responsibility of the user, therefore, to determine what material is appropriate and suitable for his or her use.

Parents may be concerned about the use of Internet information services by their children. The Library affirms the right and responsibility of parents to supervise their children's use of library resources, including Internet services. The Library will make available to parents upon request such publications as "Child Safety

on the Information Superhighway" as a guide to children using the Internet.

By using Internet services through the Tacoma Public Library, users agree that the Library will not be responsible

1) for any indirect, consequential, special, or punitive damages or losses which may arise in their use of the Internet, and

2) for the accuracy, appropriateness, or suitability of any materials or information retrieved, displayed, or printed.

Users of Library Internet services should have no expectation of privacy while using the Internet. The Library reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable or in violation of its policies. Electronic mail, chat and gaming are not authorized uses.

Use of the Internet through the Library shall be governed by and in accordance with applicable laws and regulations and with the rules and policies of the Tacoma Public Library. All users of the Internet are required to have a valid Tacoma Public Library card.

By using Internet services through the Library, users agree to abide by the "Policy for Public Use of the Internet" Policy #10.53, adopted by the Tacoma Public Library Board of Trustees. Copies of this Policy are available upon request.

B. Dial-In Public Use

The Library may make available through a free dial-in service a variety of electronic information resources, including the Library Catalog and selected Internet services. Some dial-in services may or may not be available during hours when the Library is open due to licensing restrictions. Other licensing restrictions on particular services may require the user to have a valid Tacoma Public Library card and personal identification number (PIN). Dial-in access to Internet services will, as determined by the Board of Trustees of the Tacoma Public Library, require a valid Tacoma Public Library card. Dial-in users of selected Internet services will be presented with the Conditions of Users statement shown above. An individual is responsible for all use made of library card or PIN.

3. General Provisions

The Library may from time to time adopt regulations setting time limits on any of its workstations and dial-in ports in order to maximize the efficient and effective use of the Internet and other Library information resources.

Transaction logs and other system information that could be used to identify users with specific materials or subject matter are considered by the Library to be confidential, as provided for by Administration Policy 10.23, "**Confidentiality of Records Policy**."

The Library reserves the right to apply hardware and software control mechanisms to ensure that information provided through its Internet services is consistent with its mission and collection development

policies. The Library's acquisition of Internet materials to be made available to Library patrons does not include graphic materials depicting full nudity and sexual acts which are portrayed obviously and exclusively for sensational or pornographic purposes.

The Internet terminals and software must be used as installed. Any person tampering with Library software to support Internet access beyond those services and software supplied by the Library, or in any other way adding to, modifying, or removing any system software or hardware, may have his or her use of Internet services limited or suspended, and may be banned from the Library, as provided for by Board Policy #10.49, "Exclusion from Library Premises."

A user may not use the computing resources of the Tacoma Public Library for any illegal or unauthorized act or in violation of any library rule or policy or of any local, state, or federal laws or regulations.

Library computing resources are to be shared among users. Therefore, an individual user or group of users may not engage in any behavior that unreasonably interferes with or disrupts the use of computing resources by others. Disruptions include, but are not limited to: distribution of unsolicited advertising; propagation of computer viruses, worms, or other computer programs that have the potential of damaging or destroying programs or data; harassment of other persons; and using computer resources to make unauthorized entry to any computer accessible via the network, including the host systems at the Tacoma Public Library.

Each network that a user connects to has its own set of policies and procedures. Actions which might be allowed on one network may be controlled or forbidden on another. It is the user's responsibility to abide by the policies and procedures of these other networks.

When downloading software, files or data, it is the user's responsibility to check for copyright protection or any licensing agreement and to comply with the requirements of that copyright or licensing agreement.

[D. Ex. 68-69]
[Westerville Public Library Internet Use Policy]

Exhibits 68-69 constitute a brochure that has been omitted and will be submitted in a separate lodging.

[D. Ex. 83]
[Fulton County Public Library Internet Filter Settings]

Exhibit 83 is a screen shot that has been omitted and will be submitted in a separate lodging.

[D. Ex. 92]
[Memphis-Shelby Public Library Internet Use Policy]

MEMPHIS . SHELBY COUNTY PUBLIC LIBRARY & INFORMATION CENTER

About the Library

[Up]

Library Internet Use Policy

The Library provides access to Internet World Wide Web content in accordance with our mission of satisfying our customer's need to know.

The Library's official web site the Library Web provides customers with links to basic information on the World Wide Web that has been indexed, reviewed, and recommended by staff. In addition the Library allows customers to connect to other network resources outside the Library.

The Library assumes no responsibility or liability for any such content. Customers are encouraged to exercise discretion while using the World Wide Web content. Parents and children are encouraged to learn more about child safety on the Internet from the **Kid's Web** page on the Library Web. As with all library materials, restriction of a child's access to the Internet is the responsibility of the parent/legal guardian.

The Library employs filtering technology to reduce the possibility that customers may encounter objectionable content in the form of depictions of full nudity and sexual acts.

Customers who encounter objectionable content may request a block for that content using the online Customer Request for Reconsideration of Library Materials or World Wide Web Resources Form or the printed version available in each library.

Customers who are prevented by the filtering technology from access to content which they believe is not objectionable may request that the block be removed using the online Customer Request for Purchase of Library Materials or Access to World Wide Web resources Form or the printed version available in each library.

[Footer Omitted]

[D. Ex. 99]
[Tulsa Public Library Internet Use Policy]

[Heading Omitted]
Internet Usage Policy and Guidelines

Click here for more Safety Tips to Cyberspace for Parents and Kids.

POLICY

The mission of the Tulsa City-County Library is to provide informational, educational, cultural, and recreational materials, services, and programs to the people of all ages in Tulsa County. In addition to the use of print resources, the Library also offers electronic access to information from throughout the world. The World Wide Web via the Internet is an important tool in accomplishing this mission.

TCCL is not responsible for the content, accuracy, or availability of an external Internet sites. The accuracy and currency of the information is the responsibility of the originating organization. This global electronic network may contain materials which are out-of-date, illegal, controversial or offensive to individuals. We strongly recommend that parents supervise their child's Internet sessions and let them know if there are materials which they should not access.

All internet resources accessible through the Library are provided equally to all library users. It is the responsibility of the user to respect copyright laws and licensing agreements, and to assume responsibility for payment for any fee-based service.

Acceptable use includes respect for the privacy of other uses and maintaining the integrity of the computer system.

Unacceptable use includes using the Internet for any illegal purpose, transmitting obscene or threatening material, and using the system in a manner that precludes or hampers its use by others. Failure to abide by these policies will result in the loss of Internet privileges.

The first 5 pages printed are free, every additional page is 10 cents per page. Users may download to disks. The Library had disks for sale at $1 per disk.

GUIDELINES

- Staff will gladly assist Internet users but cannot provide extensive instruction. Free workshops are available at some libraries on a regular basis.
- Users should notify library staff if they encounter any problems with the computer or programs.
- Internet computers may not be used to gain access to unauthorized networks or computer systems, for illegal or criminal activity, including slander, libel and the transmission or display of pornography. Tulsa City-County Library uses a screening software called BESS. It blocks access to pornographic, sex, tasteless/gross, and nudity sites. BESS allows the library to open or block individual sites. Library customers may request changes in access to specific sites. See a librarian for details.
- Library customers should not attempt to damage computer hardware or software, alter software configurations, or violate copyright laws and software licensing agreements. Failure to use the Internet computers appropriately or responsibly, as defined in the guidelines, will result in the loss of Internet privileges.

- Customers must have a valid Tulsa City-County Library card to use the Library Internet computers. There is a daily time limit for using the computers.

[D. Ex. 114]
[Greenville Public Library Collection Development Policy]

Collection Development Policy
Approved by the Board of Trustees
May 24, 1999

GREENVILLE (S.C.) COUNTY LIBRARY

COLLECTION DEVELOPMENT

COLLECTION DEVELOPMENT POLICY

MISSION

The Library's collection is established to serve the needs of Greenville County Library users. Collection development at the Greenville County Library is aimed at the general public. The Greenville County Library is committed to providing materials for business information, educational support, cultural enrichment, and recreation for the wide variety of needs and interests in this community. It is the Library's responsibility to acquire quality material presenting all points of view on current and historical issues. The Library will neither promote nor censor any particular religious, moral, philosophical or political conviction or opinion. Material will not be excluded because of the race or nationality of the author, publisher, creator, *etcetera*. In addition, material will not be excluded because of the religious, social, or political views of the author, publisher, creator, *etcetera*. The Library's approach to intellectual openness is not an endorsement of all that is contained within its collection; rather it takes the position that the public interest is best served as the Library fills the role of provider–as opposed to being a determiner–of religious, moral, and political information. This "Collec-

tion Development Policy" supports the mission and goals of the Greenville County Library as established by the Library's Board of Trustees.

AUTHORITY FOR SELECTION

Final authority for the determination of policy in the selection and acquisition of all library books and other material–including all gifts–is vested in the Library's Board of Trustees.

Procedures relating to the purchase and disposal of published books, periodicals, technical pamphlets and other such material by the Greenville County Library, are exempt from the provisions of County Purchasing Ordinance 1510. Procedures for the purchase and disposal of such items must be submitted to the Greenville County Council by the Library Board of Trustees. The current procedures were approved by Greenville County Council on March 4, 1986. See separate document, "Library Materials Disposal Procedures."

RESPONSIBILITY FOR SELECTION

The Board of Trustees of the Greenville County Library determines the Collection Development Policy for the Library. The responsibility for administering this policy rests with the Director of the Library. The actual selection of material is accomplished through the Collection Development Council and other staff members as needed.

SCOPE OF THE COLLECTION

The scope of the Library's book and material collection encompasses the following:

Role of the Main Library: Extensive and in-depth reference and circulating collections are maintained at the Main Library in Greenville.

Role of the Branches: Collections of basic reference works, core collections of circulating books and other material, plus currently popular works, are maintained at the branch libraries.

Special Collections: Based on the services it is expected to perform, the responsibility of the Library is to provide circulating and reference material for the general public. Special collections are maintained only when indicated by the demonstrated needs of the community.

Awareness of Area Resources: The Library maintains an awareness of the purpose and resources of other libraries in the area and avoids needless duplication of their functions and/or material.

SELECTION CRITERIA

Criteria used in the selection process include the following:

1. Each type of material must be considered in terms of its own merit and the audience for whom it was intended. There is no single standard which can be applied in all cases when making an acquisition decision. Some material may be judged primarily in terms of artistic merit, scholarship, or value to humanity; other material is selected to satisfy the informational, recreational, and educational needs of the community. The Library's general policy is to select and acquire books and other material which best satisfy the clientele of the Library within the budgetary limitations imposed by its funding sources. Conscientious effort is made to meet the expressed needs of the community.
2. Some material evaluated may be in widespread or substantial local demand. Items having such demand may or may not meet other criteria contained

in this policy; however, the volume and nature of requests by members of the public will be given serious consideration. Library users' requests for the acquisition of material are encouraged. Selection of requested information is made consistent with the Library's established "Collection Development Policy," availability, cost, demand, and adequate citation.

3. Material will be judged as a whole rather than on isolated passages, illustrations, or other individual elements.

4. The books and other material–including all gifts–acquired by the Library are selected by using the following **specific criteria**, which are listed in no significant order:

   - **Authority of the author/producer** based on education/training, field of specialization, professional reputation, *etcetera*;
   - **Content of the book or item** based on objectivity, accuracy, point of view, authenticity, contribution to the subject area, *etcetera*;
   - **Style** based on clarity, readability, artistic/literary excellence, manner of presentation, *etcetera*;
   - **Format** based on physical condition and quality, ease of storage and maintenance, sturdiness of binding or packaging, quality of printing/recording/filming, size of item, *etcetera*;
   - **Value** based on permanency, currency, educational information, recreational use, historical content, ephemeral nature, special interest, *etcetera*;

   - **Cost of the item** based on whether the item is a good value, is unusually expensive, is too costly for the quality/demand of the item, *etcetera*;
   - **Demand and nature of the demand** based on whether the item is a best seller, is of popular interest, supports educational curricula, is of local interest, *etcetera*;
   - **Scope and audience** based on the potential use of the item, whether the content is appropriate for the intended users (e.g. reading level), *etcetera*;
   - **Evaluations** based on critical reviews in reputable and accepted library review sources, *etcetera*;
   - **Reputation** of the publisher/producer and of the distributor/jobber, *etcetera*;
   - **Quality and quantity** of items already in the collection on the subject, *etcetera*;
   - **Professional judgment** of the Library staff.

5. Material in special formats:

In addition to the selection criteria listed above, the following criteria are used for special formats:

   - **Audiovisual Material** based on:
     Artistic and technical quality of specific format
     Durability of item
     Durability of packaging for specific items
     Quality of abridgment if work is abridged

Authenticity of treatment
Number of audiovisual items in same or related subject areas
Availability of the necessary equipment

- **Electronic Databases and Online Services** based on:
  Accuracy of information
  Initial cost and cost of ongoing updates and maintenance
  User friendliness
  Compatibility with existing library equipment and software
- **New Technologies and Formats** based on:
  Accuracy and timeliness of information
  Initial cost and related expenses
  User friendliness
  Duplication of information and/or service
  Need

SELECTION AND VENDOR RELATIONS

Authority for the selection of sources and/or vendors of material is delegated to the Collection Development Council.

COLLECTION MAINTENANCE

Review and Evaluation: It is the responsibility of the Collection Development Council to work with other Library staff to review and evaluate the existing material of the Library's collection. Periodic and ongoing review of material is necessary in order to maintain an active collection of current interest and usefulness to Library patrons. Library staff members involved in the evaluation of each item for potential withdrawal and/or transfer shall follow the same criteria used for the selection and/or addition of all books and other material.

Transfers: Some material may be transferred within the system, i.e., a reference work is changed to a circulation item or an item is transferred from one agency to another.

Withdrawals: Systematic weeding is an integral part of the selection process which helps maintain the quality of the Library's collection. The same care, thought, and judgment is used in this process as in the original selection. Withdrawal policies are generally applicable throughout the entire collection and are in compliance with local, state and federal laws.

RECONSIDERATION OF LIBRARY MATERIAL

Any Greenville (S.C.) County Library user, by completing the proper form, may request that an item already included in the Library's collection be reviewed to determine if its meets the Library's "Collection Development Policy." Review committees will reevaluate the item and determine if it meets this policy. The decision may be appealed. See separate documents: "Reconsideration of Library Material Procedures," and "Request for The Reconsideration of Library Material."

GIFTS AND DONATIONS

Gifts and donated material are evaluated for inclusion in the collection using the same criteria as that given to material considered for purchase. All material given to the Library becomes the sole property of the Library.

THE FREEDOM TO READ AND THE LIBRARY BILL OF RIGHTS

The role of a public library in a democratic society is to ensure open access to information and material for all as guaranteed by the "First Amendment" of *The Con-*

stitution of The United States. The Library considers the *Freedom To Read* and *The Library Bill of Rights* important tools to help clarify this role, and it considers them to be an integral part of this policy, so long as they do not violate local, state, and federal laws. See separate documents: *The Freedom to Read*, and *The Library Bill of Rights.*

This policy supersedes "The Library Materials Selection Policy," dated July 26, 1993.

This policy became effective on the date of adoption, May 24, 1999.

5-24-99 JS

[D. Ex. 119]
[Greenville Public Library Internet Use Policy]

Greenville County Library System Internet Use Policy

Approved by Board of Trustees on July 17, 2000
Revised August 21, 2000; January 22, 2001;
May 21, 2001; and September 24, 2001

Section 1. Purpose for Providing Internet Use: The Greenville County Library (hereinafter "Library") provides limited access to the Internet in a non-public forum, as a service to our patrons. The Internet is a resource that enables Library patrons to connect to information beyond that contained in the Library's collection. The Library is **not** a commercial Internet service provider. It is the Library's policy to provide Internet access to the public within the limits of available space, equipment, time, personnel, and other resources. The Library cannot guarantee access to the Internet at any given time. The Library is not open to the public for all forms of expressive activity. In offering Internet access, it is not the intent of the Library to create a public forum with respect to the receipt and communication of information through the Internet.

The Library may recommend interesting, useful, and legal Internet destinations and resources for Library patrons to access and explore. However, the Internet is currently an ungoverned and unregulated source of both verified and unverified information. While the Internet does contain a wealth of useful material, it also provides access to sites containing material that some

patrons may offensive or objectionable as well as access to sites that are illegal, unlawful, or obscene.

This Internet Policy is intended to affirm and serve to advance the following governmental interests:

(A) The protection of children from exposure to obscene material, child pornography, or material harmful to them; and

(B) The aid and support of parents and/or the guardians of children in the discharge of their primary responsibility for their children's well-being; and

(C) The prevention of the creation of a sexually hostile work environment for library Staff and patrons, and the prevention of discriminatory conduct; and

(D) The maintenance of discipline and order, and the limitation of disruptions in the study or work environment of the Library; and

(E) The minimization of providing access to illegal pornography; and

(F) The aid and support of Federal and state criminal and civil laws designed to deter and punish trafficking in obscenity, child pornography, stalking, and harassment by means of computer; and

(G) The promotion of respect for authority and traditional values, be they social, moral, or political; and

(H) With respect to minors, the exclusion of material which is "pervasively vulgar" or "educationally unsuitable" for the respective recipient age group.

(I) The preservation of the Right of the Nation and the States to Maintain a Decent Society.

In providing computer access as an information resource, such as the use of or providing access to or through the Internet, World Wide Web, or an interactive computer service (as defined in 47 U.S.C. § 230 (e)(1) and (2) and § 231 (e) (1) and (3)), the Library realizes that electronic display is more public in nature than other print media. It also recognizes that while it is impossible to monitor totally all the information or images that can be accessed on the Internet, some amount of control can be exercised. The Library will seek to facilitate, provide, and encourage Internet use in its facilities that is in accord with general community standards. The public dissemination of obscene material or child pornography is not necessary nor required under the Library's mission and is inconsistent with public policy and community standards. The Library also seeks to avoid and minimize the opportunity that unrestricted access to the Internet would result in exposure and exhibition of offensive sexual materials that could contribute to a hostile work environment or other sexual harassment or discipline problems within the Library environment

Recent news reports and studies indicate that the problem of children and adults (including registered sex offenders) accessing sexually explicit pornographic materials (including child pornography, bestiality, hard core adult pornography, and with respect to minors, pornography that is harmful to minors) in public libraries may result in situations potentially harmful to public health and safety. In particular, a 1999 report entitled "Dangerous Access," released by Filtering

Facts, a librarian organization that promotes the protection of children in public libraries, documents 503 incidents in which patrons have accessed pornography in public libraries. Children were involved in 245 of the incidents, and 20 involved child pornography, a molestation, and several attempted molestations. The report documents at least 195 incidents of children accessing pornography in public libraries, at an average age of 12 years. Many instances are reported where adults have exposed minor children to adult pornography and child pornography, such as would be done intentionally by pedophiles, child stalkers, or child pornography addicts. Most significantly, this Library's Board has identified more than 100 incidents in which patrons have viewed and displayed pornography. In a number of incidents, minor children and other unwilling patrons and Staff have been exposed to pornography and/or obscenity. Some of these exposures have been intentional. The viewing and displaying of pornography and/or obscenity has created an atmosphere that some patrons and Staff have described as negative and hostile.

The Library reserves the right to evaluate, test, use, and implement software and network control and filter mechanisms designed to limit or restrict access to sources of information or images deemed inappropriate for Library dissemination under the criteria set forth in Sections 2, 3 and 4, below. The Library reserves the right to restrict or attempt to restrict entry into the Library's computer terminals or network of any materials that may not or would not meet the Library's selection criteria or policy for the Library's physical book, film, magazine, or other collections, and the Library may use, employ, or delegate such judgments

and functions to outside parties, consultants, Internet service providers or filter services, as well as to staff and directors of the Library. Finally, the Library reserves the right to claim and take advantage of the "Good Samaritan" immunity protections for voluntary use of screening and blocking mechanisms and procedures to restrict access to pornographic, violent, harassing, or otherwise objectionable materials, whether nor not such material is otherwise constitutionally protected in other forums or places, as provided in federal law in Title 47, United States Code, Section 230 (c) (47 U.S.C. § 230 (c) (1) and (2)).

Section 2. Prohibited Access Criteria: The Library will implement software and/or network control mechanisms designed to limit or restrict access to sources of information or images that may be deemed to be Obscene, including hard-core pornography depicting sexual conduct where penetration of the genitals is clearly visible and other explicitly sexual pornographic representations of sexual conduct ("ultimate sexual acts, normal or perverted, actual or simulated, . . . masturbation, excretory functions, and lewd exhibition of the genitals") within the scope of federal and state obscenity laws and the constitutional test for obscenity provided by the United States Supreme Court in the "Miller Test" announced in Miller v. California, 413 U.S. 15, 24-25 (1973), Smith v. United States, 431 U.S. 291, 300-02, 309 (1977), Pope v. Illinois, 481 U.S. 497, 500-01 (1987), etc.

Section 3. Prohibited Access Criteria: The Library will implement software and/or network control mechanisms designed to limit or restrict access to images that may be deemed to be Child Pornography, containing a

visual representation of a minor under 18 years of age engaging in sexually explicit conduct, as defined in 18 U.S.C. § 2256.

(A) There is an inference, which may be rebutted, that a participant in sexual activity, depicted as a minor through its title, text, visual representation, or otherwise, is a minor.

(B) As used herein, sexual activity includes sexual acts by minors such as intercourse, oral sex, and includes "lascivious exhibition of the genitals or pubic area." In determining when genital or pubic area exhibitions are "lascivious," guidance shall be drawn by the following factors discussed in United States v. Dost, 636 F.Supp. 828, 832 (S. D. Cal. 1986), affirmed, sub nom, United States v. Wiegand, 812 F.2d 1239, 1244 (9th Cir. 1987), cert. denied, 484 U.S. 856 (1987):

1. examples of sexually suggestive or lewd photographs of children would be those in which the child is depicted as half or partially clothed, posed in such a way as to depict or suggest a willingness to engage in sexual activity or a sexually coy attitude.

2. In determining whether a visual depiction of a minor constitutes a lewd or lascivious exhibition of the genitals or pubic area, the following factors, among any others, may be relevant in the particular case:

   (a) whether the focal point of the visual depiction is on the child's genitalia or pubic area;

   (b) whether the setting of the visual depiction is sexually suggestive, i.e., in a place or pose generally associated with sexual activity;

   (c) whether the child is depicted in an unnatural pose, or in inappropriate attire, considering the age of the child;

   (d) the child is fully or partially clothed, or nude;

   (e) whether the visual depiction suggests sexual coyness or a willingness to engage in sexual activity;

   (f) the visual depiction is intended or designed to elicit a sexual response in the viewer. A visual depiction need not involve all of these factors to be a lewd or lascivious exhibition of a minor's genitals or pubic area. A determination may be made based on the overall content of the visual depiction, taking into account the age of the minor and the nature of the work and its context, promotion, or marketing.

Section 4. Prohibited Access Criteria: While a computer providing access to the Internet or other interactive computer service is being used by a minor or is being used in an area accessible to or frequented by minors, during such use the Library may also implement software and/or network control mechanisms designed to limit or restrict access to sources of pornographic information or images that may be deemed to be "obscene as to minors" or "Harmful to Minors," as that term is used in federal (47 U.S.C. § 231 (e)(6)) and

similar state laws, for the age groups of minors who may be exposed to such materials.

Section 5. Application of Selection Criteria: The Library reserves the right to implement software and/or network control mechanisms designed to limit or restrict access to material that does not meet the established selection criteria that the Library applies to all other material, including material that violates federal, state, or local laws.

Section 6. Access to Terminals without Software and/or Network Control Mechanisms: Should an adult patron desire to access a computer terminal without software and/or network control mechanisms, the adult patron shall be allowed access to a computer terminal without software and/or network control mechanisms under the following conditions:

a. At Main, access shall be available on at least one computer terminal near the Reference Desk, and at each branch access shall be available on at least one computer terminal near the staff desk;

b. Access shall be available only after the adult patron

1. Has signed up for and attempted to access a site on a computer terminal in the public area (those computers employing software and/or network control mechanisms); and
2. Has been denied access by the software and/or network control mechanism; and
3. Has employed the appeal procedure available at the computer terminal in

the public area via the software and/or network control mechanism.

c. The adult patron shall not access information or images that meet the prohibited access criteria provided in sections 2 & 3 above.

d. The Internet Use Policy shall apply in every aspect at any computer terminal without software and/or network control mechanisms.

Section 7. Disclaimers Regarding Internet Use: The Library cannot verify or be held responsible for the accuracy, reliability, quality, timeliness, or legality of information found on the Internet. The Library has no control over the information contained on the Internet and is not responsible for its content. The Library cannot be held liable for the conduct of Internet users. The Library may not be able to control access to materials or protect patrons from materials they may find offensive. Library users access the Internet at their own discretion and risk, and they are responsible for evaluating the validity and appropriateness of information accessed. Users should be aware that the Internet is not a secure or private medium and that third parties may be able to obtain information regarding users' activities.

Section 8. Internet Safety Warning and Notice to Parents and Guardians: Because the Internet includes some information which parents and guardians may deem to be unsuitable for their children, parents and guardians must provide the necessary guidance and oversight of their children. Parents and guardians must ensure that they take all appropriate actions in respect to the use of the Internet at the Library by their minor children. The Library System and its staff cannot act in

the place of a parent or guardian. The safety and security of minors using electronic mail, chat, instant messaging, and other forms of direct electronic communication are the responsibility of the parent/guardian. Except as provided for in Section 6 of this Policy, all Internet enabled computers in public areas throughout the Library system shall have filtering software activated with the intent to provide for the safety and security of minors using Library services.

As a condition of Internet use at the Library, each user must agree to comply with all applicable laws, rules, and regulations, including without limitation, all rules and regulations which may be established from time to time by the Library. Further, each user must agree to take no action on the Internet which could cause the Library to incur any expense beyond the general access fees. By initiating use, the user agrees to the fullest extent permitted by law to hold the Library harmless from any liability for any wrongful conduct of the user, including without limitation, any such unauthorized expense, costs, and attorney's fees.

The Library reserves the right to refuse access to the Internet to any person or persons for the violation of this or any other policy of the Library, in accordance with applicable law. The following rules for the use of all Library Internet computers are adopted and established as an integral part of this policy:

Rules of Use for the Internet

1. Each user shall be deemed to agree, by advancing beyond the initial computer screens, to abide by the Library's Internet Use Policy.

2. Users must sign in to use the Internet.
3. Users must hold a library card issued by the Greenville County Library.
4. Users may sign-up for Internet access in increments of one hour based on availability of computers. Users may sign up for additional one-hour increments if computers continue to be available
5. Users may not send, receive, or display obscene materials, child pornography, and/or other materials prohibited under applicable local, state, and federal laws.
6. Users may not make unauthorized entry into other computational, informational, or communication services or resources.
7. Users may not misrepresent themselves or the Library by using computer accounts, access codes, numbers, passwords, signatures, or network identification assigned to others.
8. Users may not invade the privacy of others at any time or in any way.
9. Users may not use the Internet for illegal activities, including the violation of the rights of third parties, or activities inconsistent with the Library's tax-exempt status.
10. Users may not make any attempt to damage, alter, and/or bypass the Library System's computer equipment, software, or data, and/or the equipment, software, or data of others. In addition, users may not instruct or demonstrate to another user how to bypass

web-filtering technology or other software control mechanisms. Any user who violates this rule in any manner may lose access to the Internet or lose other Library privileges. Other sanctions may apply as described elsewhere in this document.

11. Copyright: U.S. Copyright Law (Title 17, U.S. Code) prohibits the unauthorized reproduction or distribution of copyrighted materials, except as permitted by the principles of "fair use." Subject to fair use, users may neither reproduce copyrighted materials (text, images, programs, and/or data) nor distribute such materials by any means (including electronic mail) without the explicit written permission of the copyright holder. Responsibility for any consequences of copyright infringement lies with the user. The Library expressly disclaims any liability or responsibility resulting from such use.
12. Only Library staff may reboot, restart, or log onto the Library's Internet computers.

If the Library determines that a user would benefit from additional instruction in the use of the Internet, the Library reserves the right to request that a user attend an orientation and/or training session.

Further, the Library reserves the right to limit the volume of printing of materials by patrons and/or to impose charges for such printing.

Violation of the Library's *Internet Use Policy* and of any other rules and regulations may result in a loss of access to the Internet (including the World Wide Web)

through the Library's Internet connection and/or a loss of other Library privileges. Unlawful activities may result in prosecution by local, state, and/or federal authorities.

Users may appeal the loss of access to the Internet under the provisions of the Library's *Suspension of Privileges Policy*.

Because of the unsettled state of applicable local, state, and federal laws, this policy is considered to be a working document and is being implemented on a trial basis. The Library reserves the right to make any changes in this policy at any time.

Section 9. Severability: If any section, sub-section, sentence, clause or any part of this Policy is for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Policy; and it shall be construed to have been the Board's intent to pass this Policy without such unconstitutional, inoperative or invalid part therein; and, the remainder of this Policy, after the exclusion of such part or parts, shall be held and deemed to be valid as if such excluded parts had not been included herein.

Section 10. Patron Privacy: The Greenville County Library System will not sell, rent, or otherwise distribute or disclose a patron's e-mail address, postal address, phone number, web sites visited, computer time used, borrower records or other personal information, individually or in aggregate, unless required to do so by court order.

This policy will become effective on August 21, 2000. **(Revised 1/22/2001, May 21, 2001, and September 24, 2001)**

[Footer Omitted]

[D. Ex. 160]
[Pasadena, Texas, Public Library Internet Use Policy]

Pasadena
TEXAS

Internet Rules and Procedures
(May 1999)

1. To use the library computers, you must sign-in at the Information Desk with the library employee then in charge of the "sign-in" list.

2. Only one person is allowed to use an Internet terminal at a time, except for parents who are monitoring the work of their children on the Internet.

This rule was needed because the numbers of people who would gather around the terminals often creating a noisy situation that troubled other library users.

A parent or guardian may use a terminal with children, but that parent is responsible for adhering to the thirty-minute time limit. Also, a person 14-years-old with a high school ID may use the Internet terminals in the adult department.

3. A 30-minute time limit will be enforced when others are waiting to use a terminal. No extra time will be added for restarting the computer.

4. A user is limited to one signed-in Internet session during peak use periods.

5. Priority on the use of the Internet is given to those using it for academic or research purposes; these users will receive priority access over those using the Internet for entertainment purposes.

Handicapped users will be given priority to spaces designated for handicapped individuals. There shall be appropriate signage indicating which workstations are so designated.

6. The library can provide fifteen sheets of paper forprinting research or academic information from the Internet.

7. Users of computers in the adult area must be 14 years of age or older.

8. Users may not access chat-rooms or e-mail on the library computers.

9. The library has recently implemented Internet filtering in order to ensure that the Internet is used responsibly.

The library filters the following sites for the computers designated as the Children's OPACs (the computers are filtered as "C," child):

1 Chat
2. E-mail
3. Criminal Skills
4. Dating
5. Extreme or Obscene
6. Games

7. Hate Speech
8. Sex

The library filters the following sites in the computers designated as the adult OPACs at both the Main Library and the Fairmont Branch Library (the computers are filtered as "A," Adult):

1. Chat
2. E-mail
3. Extreme or Obscene
4. Games
5. Sex

10. Users are prohibited from engaging in illegal, tortuous or destructive activities on the Internet.

11. Users may not turn the computer off when they are finished using it.

12. If you experience any mechanical problems with the equipment, ask the library staff for help.

13. The library expressly disclaims any liability or responsibility arising from access to or use of information from the Internet through its facilities, or any consequences thereof.

14. The library reserves the right to update and change this policy at any time without notice. It is the responsibility of the library patron to read and accept the current version of the policy. Any violation of the rules may result in the patron being denied access to library facilities.

15. The designated Internet stations are monitored by staff for assistance and security.

The library reserves the right to require all prospective users to read the policies and procedures for computer and Internet usage and to sign an acknowledgment that they read and understood these rules.

The library reserves the right to remove Internet privileges from library users who violate these rules. The library also reserves the right to remove users who fail to comply with the library's rules.

16. The library reserves the right to require all prospective users to attend an orientation session as a condition for access to the Library Internet

[D. Ex. 186]
[Expert Report of Donald G. Davis, Jr.]

DEFENDANTS EXPERT WITNESS REPORT OF DONALD G. DAVIS, JR.

1. My name is Donald G. Davis, Jr., professor in the Graduate School of Library & Information Science, University of Texas at Austin, where I also have an appointment as professor of history. For Fall 2001 I am also serving as Interim Dean of the School. I have been a librarian and taught graduate-level library science courses since 1964. Following a B.A. degree in history from UCLA, I earned the M.A. in history and the M.L.S. from University of California, Berkeley. After several years as reference and special collections librarian at Fresno State College in California, I completed the Ph.D. degree at the Graduate School of Library & Information Science, University of Illinois at Urbana-Champaign in 1972.

2. In my years at Texas that began in 1971 I have taught courses related to the history of archives, books, and libraries; issues in contemporary publishing; and Collection Development, a popular elective that I have taught since 1975. In conjunction with teaching the Collection Development course to literally hundreds of students, I have supervised numerous projects that assessed and evaluated library collections of all kinds. In addition to more than a dozen authored and edited volumes, I have published over 130 book chapters, articles, and reports—as well as more than 250 book reviews for scholarly and professional media. Since 1977 I have edited Libraries & Culture, a scholarly journal published quarterly by University of Texas Press. Among my books are American Library History: A Comprehensive

Guide to the Literature (1989) and Encyclopedia of Library History (1994)—both co-authored.

3. I have been a continuous member of the American Library Association (ALA) since 1964 and have served as an elected officer and held appointments on several committees. I have served as chair of the ALA Library History Round Table that established an article award in my name two years ago. As a professor, and scholar I have devoted my career to educating new members of the profession. As a recognized scholar-editor in the field of American library history—and who, at the same time, teaches Collection Development and Management and participates in the assessment process for library collections and the evaluation of individual works—I believe that I am qualified to speak in support of the Defendants.

4. The U.S. Department of Justice has asked me to render an opinion on several issues that concern this case: (1) the historic mission and purpose of the public library, (2) the education and preparation of librarians to assume selection responsibilities, (3) the role of selection in the acquisition of library materials, (4) the publications that the profession has generated to assist its members in the responsibility of selection, (5) the role of professional judgment in selecting materials with diverse content, (6) the significance of reciprocal responsibilities of the library and its community of support, and (7) the implications that these trends hold for treatment and management of Internet resources dealt with in the Children's Internet Protection Act (CIPA). Each issue is considered briefly from an historical perspective with references to a selective list of standard sources appended.

5. First, in my opinion, the historic mission and purpose of the public library have been primarily educational in nature—both explicitly and implicitly. Education does not refer, of course, to learning only through textbooks and in classrooms, but through the whole corpus of human experience that has contributed to who we are as a people and a species.

6. The modern public library movement in the United States developed in the mid-nineteenth century in response to the need expressed by citizens in communities to support with tax revenues a collection of books, journals, and other materials that would benefit all groups in society. The concept of such a public institution gained popularity in Great Britain, the United States, and the Western nations at about the same time. By the twentieth century it had attracted the attention of not only Andrew Carnegie and other benefactors, but of people throughout the world. [ELH 519-521]

7. The movement that coalesced in the middle 1800s was grounded in institutions that immediately preceded it—such as, social libraries, circulating libraries, athenaeums, lyceums, Sunday school libraries, YMCA libraries, ladies' libraries, etc. With the establishment of enabling legislation in New England in the years spanning 1850, the modern public library began—available to all readers, supported by public funds, and a social institution integral to local government. The founders of these libraries—the most notable being the Boston Public Library that opened in 1854—wished "to promote equality of education opportunity, to advance scientific investigation, to save youth from the evils of an ill-spent leisure, and to promote the vocational advancement of the workers [Shera, 247]." The goal was

the enlightenment and improvement of individuals, and through this to elevate society. The first point in the American Library Association's "Library Bill of Rights" reflects the continuing significance of this idea when it declares boldly "Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves." [IFM 3]

8. This notion of the educational and civilizing purpose of the public library was the persuasive argument for the widespread support and spread of public libraries throughout New England, the middle Atlantic states, and the Middle West—and ultimately the West and the South. This broadly based appeal was significant as a foundation for the public library movement. The initial emphasis on the educational values promoted by the public library has continued as exemplified in the frequently employed the moniker of "the people's university." [Ditzion 77-96]

9. Other complementary purposes joined education over time. The civic aim incorporated the notion that individuals would become more responsible citizens if they were informed about issues; they would vote more intelligently if they had information on matters before the electorate. The utilitarian purpose suggested that one of the functions of the public library was to enable citizens to succeed in their occupations and professions and generally to develop their potential in whatever field in which they were engaged. Yet another purpose has come to be the recreational function; citizens find at the public library a variety of resources available to engage their leisure time. [Ditzion 190-193] Engaging in this latter purpose, libraries abut, but do not intend to compete with, commercial enterprises that provide the

spectrum of services and technologies catering to popular taste and media.

10. Each of these purposes has energized and been promoted by libraries, sometimes simultaneously, throughout the past century and a half. Communities and their libraries have had to decide what emphases and priorities would prevail. As late as the mid 1960s the provision of reference and information service was seen as the critical contribution of public libraries. [Lee 118-119] But whether explicitly educational or not, all public libraries have embraced goals that they deemed to be of benefit to society and their communities; none have adopted goals that would result in degrading, injuring, or harming users, or potential users, of their institutions. In fact, they would likely refrain from encouraging the use of such in a publicly supported agency. Materials prohibited by the CIPA–visual representations of obscene materials, child pornography, and other images harmful to minors—have not been among the resources selected for the enrichment of society. Public librarians from the earliest years have considered the welfare of their patrons in the selection process. In short, public libraries are in reality one of the "helping professions"—one that helps and benefits people through the tools of information resources at all levels. [WELIS 674]

11. Ongoing and recent promotions of the innate and social value of reading, and its accompanying benefits for society have emphasized goals that were positive and helpful for their communities. The prominence given to reading and library visits has again reminded citizens that the educational purpose of the public library, notwithstanding incorporation of the complementary purposes, is paramount. [Lee 112-127] When

entire cities, for example, concentrate on reading a single work and when reading and book clubs flourish in communities, the educational and civilizing aim is being realized. Strengthening community values, broadly conceived, is again gaining support from both the library community and the community at large. [McCabe 95-102]

12. Second, in my opinion, since Melvil Dewey's first school at Columbia more than eleven decades ago, library and information science programs that provide graduate-level professional education to produce qualified librarians have sought and required broad educational preparation for their applicants. Moreover they have sought to encourage intellectual curiosity and lifelong learning in their graduates.

13. For most of the past century schools that educated future librarians were proud of the fact that accepted applicants possessed a broad, liberal arts education. In current professional library programs, students undertake a rather broad series of courses that will prepare them for library employment in a variety of settings. Most library schools allow for some specialization, so that students intending to work as a selector of materials may take several specific courses that deal with the literature, reference works, and information sources in broad subject areas. Many students who aim toward work in public libraries are already beginning to demonstrate the kind of knowledge that that kind of context requires, because they read widely, are developing taste, and are becoming sensitive to the needs of patrons in given communities. [WELIS 486-491]

14. In addition to formal classroom instruction, students frequently engage in projects in libraries,

including public libraries. This often promotes a kind of mentoring role with respect to the supervising librarian. Many students who aspire to becoming public librarians will find part or full-time employment in public libraries and gain valuable experience in evaluating patron requests and available materials. When collection evaluation projects are undertaken in a local public library, the students receive first-hand experience of judging the relative value of items in a collection and the adequacy of the collection as a whole. These kinds of apprenticeships are building blocks in gaining professional competence.

15. Through education and experience, then, librarians are equipped to make the kinds of judgments that one would expect of a professional who is trained in this area. Professional education programs are acutely aware of what their graduates will need to perform on the job and they seek through a variety of means to provide them with the preparation they need. Graduates from professional library and information programs are most effective, especially in public libraries, when they have had wide exposure with the world of ideas, communication patterns, and community needs. [Evans (2000) 25-26]

16. Third, in my opinion, the role of selection in the acquisition of library materials has been one of the primary, if not the primary, tasks of the professional librarian. It remains so today.

17. From the earliest noted predecessors of the public library to the present, the custodians of collections—the librarians—have been obliged to choose what they will select and ultimately acquire for their store of materials from an increasingly vast universe of information resources. They have done this most effectively when

they have understood the purposes of their libraries, the needs of their served communities, and the nature and scope of available resources. Limited funds, in almost every situation, further dictated that judicious choices were necessary. This process took the form of consensus among the libraries' members or decisions delegated to members of the library staff who were considered knowledgeable in specific areas. The collection creating and building activities of the early major public libraries frequently involved scholar-librarians and bibliographers who were thoroughly expert in the world of books, such as William Frederick Poole, a leading authority in the latter half of the nineteenth century, especially as director of the Chicago Public Library. [WELIS 214-215; Wortman 1-2]

18. When the American Library Association (ALA) was founded in 1876, an effort was made to analyze, systematize, and regularize basic functions of the developing profession. Along with the publication of Melvil Dewey's Dewey Decimal Classification, in that year the U.S. Bureau of Education published its special report entitled Public Libraries in the United States of America: Their History, Condition, and Management—an encyclopedic manual of more than 1200 pages. One of the 39 chapters in this handbook was written by Poole on "The Organization and Management of Public Libraries" [476-504] in which he devoted three pages to "Selection of Books," laying out some principles that could guide public librarians in the selection of materials. A later chapter by A.R. Spofford, Librarian of Congress, offered a "List of the Principal Books of Reference Important to be Used in Libraries" that consists of the essential information sources of the time. [688-710] Early on, publications, such as lists and

bibliographies, began that brought together the collective mind of the profession to identify the significant, the best, the important items that are desirable for public libraries and their patrons.

19. While the debate soon began, and has continued, on what kinds of popular materials to include in public library collections, what proportion of the materials' budget should be expended on varieties of fiction, what groups of readers or users deserved more or less attention—the profession through its Association continued to insist that one of the librarian's primary professional functions was to select quality materials that supported the reasonable information needs of the community groups and individual members. Librarians have needed to balance the perceived demands of their patrons with the public trust of spending funds prudently. Responsible for some knowledge of a work's content, reputation (author and publisher), presentation, special features, and physical format—professional staff members needed informed judgment to make good decisions. Since no one librarian can know enough, despite his or her broad education and professional training, groups within the profession began to compile bibliographies of recommended works, create lists of desirable titles, and produce reviewing media with professionally-oriented assessments of current books and other materials. [Evans (2000) 91-95ff.]

20. Fourth, in my opinion, the publications that the profession has developed to assist librarians provide evidence that the selection function is a critical part of the professional librarian's task. The fact that these publications, produced and distributed widely by the ALA and other publishers to the profession, have been

used for so long, by so many speaks for itself about the needs of the profession.

21. Early in the twentieth century the profession, through its principal association and other publishers, began to establish regular works that consolidated the quality evaluations that librarians valued in selecting the potential purchases and assessing their collections. A few examples illustrate this commitment. The ALA initiated Booklist in 1905 to assist the staff of public libraries to make knowledgeable decisions in the selection of materials. Currently, it is a semimonthly reviewing journal that states as its purpose in mid 2001 "to provide a guide to current print and audiovisual materials worthy of consideration for purchase by small and medium-sized public libraries and school library media centers. A review in Booklist constitutes a recommendation for library purchase [July 2001]." The entries do not include the kind of explicit visual depictions that are subject of the current litigation. The Association produced its Guide to Reference Books for the first time in 1907. Its success is symbolized by the massive eleventh edition that appeared in 1996. This standard work of scholarly description and evaluation is a working tool for thousands of librarians in the United States and elsewhere and has served this function for nearly a century. Reference Books Bulletin, another organ of the ALA that began under an earlier title in 1930, serves to supplement the Guide for current material and appears in conjunction with Booklist, the reviewing medium discussed above. Public librarians who are doing their job conscientiously rely on these helpful professional tools.

22. Several works produced by other distinguished publishers also augment the selection and evaluation

aids developed by the ALA. The H.W. Wilson Company publishes several catalogs of books for various audiences, each at several year intervals. Two of these serve public librarians especially. The first is the Fiction Catalog that began in 1908; the 14th edition appeared in 2001. The second is the Public Library Catalog that began in 1934; the 11th edition appeared in 1994. Each includes several thousand annotated titles and has annual supplements between editions. The first of these is described as a "standard work that lists and annotates a selection of the best fiction in English, along with a generous representation of foreign fiction that has been translated into English. . . . Together with its companion, . . . which includes works of fiction criticism, it forms a comprehensive bibliography of recommended fiction and nonfiction for adults [Guide, 500]." Introductions to these works indicate that they can be used as aids in selection of and in evaluating material. A third work that illustrates the selection emphasis of the profession is The Reader's Adviser, published by the R. R. Bowker Company since 1921; the 14th edition in six volumes appeared in 1994. It is designed to be a guide to the recommended "best" books in English in the various fields of human knowledge. The publisher released a CD-ROM version of this work in 1996 that includes 58,000 titles. The implicit, if not explicit, criteria used in the professional works mentioned above do not support inclusion of pornographic and sexually explicit, graphic materials.

23. That recommendations for quality selection remain a priority of professional activity is evident from the several pages of the Summer/Fall 2001 catalog of ALA publications. Among the many titles devoted to the subject, one finds Best Books for Young Adults, 2d ed.

(2000) which is accompanied by the following description: "For serving the needs and interests of young adult readers—from avid to reluctant, these trusted bibliographies are sorted into more than 25 themes covering the gamut from adventure to youth in trouble [23]." Selecting materials for children and young adults is a serious matter. School librarians and children's librarians in public libraries, as well as teachers, understand this. They typically take courses in the subject during the credentialing process, learning "to analyze books as carefully and objectively" as possible and to develop judgments that are "both informed and objective." [Sutherland 25-26] Among the literary elements often considered are: setting, point of view, characters, plot, theme, and style—in addition to author, illustrator, publisher, and age of audience. In short, children's librarians, while educated to develop their own judgment and taste, value the recommendations of even more experienced colleagues because they have been entrusted with nurturing the future generation.

24. Textbooks also are another means that the profession has used to codify current best practice and to communicate this knowledge to the next generation. Many of these textbooks have concentrated on the crucial role of the selection process. From the 1920s onward, a succession of standard texts has suggested criteria for selection of fiction and non-fiction works for libraries of all kinds, but particularly public libraries [Evans (2000), 92-93]. Among these authorities are Arthur E. Bostwick (1929), Francis Drury (1930), Helen Haines (1950), William Katz (1980), Robert Broadus (1981), Arthur Curley and Dorothy Broderick (1985), and G. Edward Evans (1995 and 2001). Each author's work, attempting to balance the library's responsibility

with the needs of the community, wielded considerable influence in its time and together are worth studying for what they reveal about the continuing necessity for informed professional judgment based on experience and knowledge in the process of selection.

25. Fifth, in my opinion, professional judgment regarding content, as well as format, readership, etc., has been a distinguishing and characteristic trait that librarians have developed and exercised.

26. Though there is considerable debate within the profession, especially from the 1960s to the present regarding the skill involved in, and even the legitimacy of, evaluating the quality of materials with a view to selection, when the dust settles the publications cited above—reviewing media, bibliographical works and textbooks—continue to be published because they fill a need in evaluating content, a need that the profession has embraced. Critics and analysts may not agree with every criterion applied in past and current generations, but they cannot deny that the profession has considered the selection function to be a significant one—partly assumed and partly thrust upon it. As one authority begins his text, "The library's primary service is a good collection." [Wortman 1]

27. The fact that professional judgment, taking into consideration the purpose of the library and the unique needs and requirements of the community, has been rendered by librarians for the past 150 years and before and is still a cornerstone of professional practice raises an interesting issue. Though selection is seen generally as a positive process, every time a librarian chooses one item and not another, a professional judgment is made. When material is not selected or deselected, for a variety of reasons, the decision is best made not in a whim-

sical or even personal perspective, but in the light of specific guidelines that have been agreed upon through as much consensual discussion as possible.

28. Most librarians in most public libraries, therefore, have given careful thought to the kinds of materials and the depths of coverage—formats, treatments, and topics—that need to be evaluated carefully before determining whether or not they should be included in their collections. Each new communication medium and format thus undergoes scrutiny to understand how it fits the purpose of the library and contributes to the particular mission of the library. Although the educational preparation and broad experience prepare librarians for their selection responsibilities, they frequently seek assistance from reliable sources that can assist them in judging content, as well as format and the intended audience. [Evans (2000) xix]

29. Component elements to be considered in the selection of individual items commonly include *content* (niche, currency, veracity, perspective or bias), *reputation of author and publisher, appropriateness and adequacy of presentation, added value of special features* (illustrations, documentation, index[es], and bibliography), and *physical format* (paper, binding, design, typography). If a general and overriding consideration is the benefit or the good that this selected item will bring to the community served, then the issue of content is of prime consideration and not easily ignored. [Broadus 85-99] In addition to applying to individual considerations, the various categories of criteria may be used to make decisions between alternative selections and competing items. These elements will naturally carry more or less weight depending on the purpose of the collection. With a vast universe of materials available

for selection, librarians naturally want to select that which will provide the most value for the cost. [Evans (2000) 15-16]

30. While embracing First Amendment principles, public libraries have had to interpret what particular role or niche in the cultural world they would play. While declaring that they were committed to provision of materials for "the interest, information, and enlightenment" of all, library staff members know that the library cannot (and likely should not) supply all the material that is available. In fact, many considerations enter in to what materials a library will include in its collection. In addition to decisions about media and formats, other questions about potential problem materials arise. These categories include costly materials, ephemera and fragile materials, high-risk and unprotected materials, as well as other materials that do not contribute to the purpose of the library. Not only do the collecting contours of genre or fiction and non-fiction, reference, and foreign language works need to be determined. Subject fields like law, medicine, religion and genealogy many times require guidelines for appropriate selection. Materials dealing with drug and substance abuse, obscenity and pornography, materials unsuitable or harmful to minors, semi-and pseudo-scientific works, unbridled and offensive social propaganda, not to speak of guns, firearms and explosives—all require and receive consideration utilizing the professional judgment of librarians.

31. While some of these fields are governed by statutory law, most are not. Librarians apply their informed judgment when they assume responsibility for selecting materials. Legal considerations are only the minimal and "worst case scenario" among considerations. Pro-

fessionals hold to higher standards that reflect their user groups. Children and minors pose a special case, as they do in virtually every civilized society, and are protected from behavior that will affect them adversely. In any event, most librarians strive in the most delicate manner to balance individual needs with the public good. The critical point is that selection of materials in libraries occurs regularly in a variety ways. How that public good is understood and determined is and should be a matter for discussion.

32. The notion that the kind of professional judgment applied to individual print and non-print items should also be applied to the Internet is consistent with historic professional practice. Rather than considering the initiation of Internet access as simply one selection decision to acquire one item—such as, for example, a very large and exhaustive encyclopedia—those responsible for selection might well view Internet access as a kind of approval plan whereby many items come to the library for review and those that do not meet the library's collection profile are returned to the vendor. In the case of the Internet, the use of filters accomplishes a similar function. Likewise, Internet materials arrive unsolicited at the library and might well be subject to the same collection profile review, albeit using technological devices. Categories—such as "extreme/obscene-/violent" and "adult/sexually explicit," for example—are not included in public libraries' subjects for active selection. Why then, some would ask, should they be included in the Internet fare offered to public library users? As filtering devices become ever more effective, and are accompanied by adequate safeguards that allow for overriding limitations for reasonable use, they can ensure that selection standards will remain intact.

33. Sixth, in my opinion, libraries, and particularly public libraries, because of their community-based support and their accountability to their constituents have been and remain inextricably linked. They must serve one another to be effective. They need, and are instructed in how, to carefully assess the needs of their communities and apply their professional judgment to selection decisions. Thus they have developed strategies to assist them—community analyses and collection development policies.

34. There would seem to be little question that selection of materials is a primary function of professional librarians and that they, and their constituent communities, wish for it to remain so. Among the principles, or maxims, of materials selection is one that urges librarians to understand their communities and their needs for information and ideas as they pursue the life of the mind. This can be an arduous assignment, even if aided by data generated by public and commercial sources. Without such an understanding, librarians can too easily ignore the information needs and expectations of their natural clientele. Ultimately, from the vast universe of information materials—books, journals, audiovisual media, and electronic resources—librarians are obliged to select knowledgably for their communities and patron groups those items and categories of materials that will most effectively satisfy the needs identified.

35. While librarians wish to serve as intellectual provocateurs, they know that public libraries have never been able, nor seen fit, to provide all available material to their communities. However, by weighing the relative value of their acquisitions, librarians exercise their judgment as to what materials will meet the needs of

their users and potential users. Public libraries are, after all, "public" libraries—and as such, reflect largely the range of common values shared by community groups, rather than the isolated, unique needs of solitary individuals that might be better served through other entities. [Evans (2000) 31-63]

36. Public librarians, in particular, are trusted by the public to be accountable to their communities for the decisions that they make that support the purpose of their institutions that are, in turn, made possible by public funds—local, state, and federal—funds that the people through their elected representatives provide. Thus, conscientious librarians make every effort to understand the nature of their communities—the socio-economic demographics, the cultural and intellectual infrastructures, and the historical-geographical contexts—in order to select materials that will be optimally useful. As communities change in character, the selection of materials also changes. This can result in adding new materials and in deselecting other materials, so that the collection provides optimum support for members of their communities. Deselection, or "weeding" of collections, is commonplace for public libraries and should be done regularly according to standard guidelines. However, public libraries will be unlikely to deselect materials that concern this litigation, because they were never selected for the collection in the first place.

37. A frequent way in which ideas, principles, and processes of selection may be forthright and useful to both staff and the public is accomplished through the development of documents that lay down some of the understandings of groups to be served and of the criteria that will be applied in decision-making—in other

words, a selection policy. As important as indicating what materials will be collected are guidelines that indicate what material will not be selected—for a variety of reasons that have been carefully considered beforehand. When these policies are developed in concert with local communities and are used as guidelines for selection, then both the professional library leadership and the community represented by the public can be well served. Donations and gifts of materials are subject to the same selection considerations as materials that the library purchases. While it is true that no criteria or standards are, nor should they be, applied rigidly in every public and school library in every community, thoughtfully constructed selection policies can serve as a catalyst for developing mutual support. Furthermore, the profession has long held the conviction that the more time and effort expended in the establishment of these policies in advance, the fewer the problems will develop at a later date. Those difficulties that persist can be minimized. [Futas 331-233; Evans (2000) 69-86]

38. Seventh, and finally, in my opinion, if public libraries honor their heritage and are consistent in their maintaining quality standards in the selection of library materials, they will apply the same standards to Internet resources that they apply to other materials. The medium is decidedly different, but if the mission remains intact, means that match the medium can assist librarians and their communities to fulfill their mission.

39. A library historian, looking at the history of the public library movement in America from the mid nineteenth century to the present, must acknowledge that the selection process is deeply imbedded in what consti-

tutes professionalism in the library profession. It is also what the general public has come to expect of their librarians. The manner in which principles of selection apply to the pervasive and ubiquitous electronic media is a hotly debated issue within the profession, if not in American society at large. The professional staff members in public libraries intuitively understand that their qualifications have equipped them to help their users locate and utilize reliable websites—as the current helpful column, "Web Watch," in one of the most influential journals of the profession, *Library Journal*, underscores. There is, of course, no similar column for pornographic sites displaying visual images unsuitable for children—nor is there likely to be.

40. A complementary strategy that can work for the same end, to bring Internet materials in line with existing selection practices that reflect is the employment of filters that, judiciously monitored, can maintain to some extent the kind of criteria that make the library an attractive place for all, including children. They can use technology to solve problems that technology introduces. A unique medium may well require new approaches to ensure the desired end. One can only wonder why many in a profession that is enthusiastic, with good reason, about the immense promise and power of Internet access to information and ideas seem most reluctant to utilize developing tools to accomplish their time-honored goals of providing material of "interest, information, and enlightenment" to its tax-supporting users. As many public libraries have demonstrated, there is no intrinsic reason why filtering devices cannot be used in a beneficial way.

41. In any case, large segments, quite likely the majority, of the general public expect librarians to use

their professional judgment wisely and exercise their options when dealing with newer technologies. [Evans (2000) 562-563] Supporters of public libraries will rightfully want to be assured that the selection of materials and provision of access to electronic information—visual, as well as text—is consistent with the mission and purpose of the library. Librarians either select, or they do not. They either practice their professional competence or they risk becoming mere technicians and managers. Visual depictions that are considered obscene, child pornography, and harmful to minors (CIPA) are clearly not found in general public library collections. Many citizens and librarians will envision no loss in their absence from the Internet for children in their community libraries. The Internet is hardly a medium that nullifies the role that public libraries have played from their inception—a point underscored by a recent article in American Libraries. [Herring, April 2001] Librarians will need to deal with this issue in a forthright and accountable manner.

42. The fact that some members of the library profession are reluctant to undertake the obligations of selection and deselection in relation to the world wide web that they have historically carried out as a public trust with conventional media reveals an inconsistency with the purpose of the public library. For librarians to abandon this function is tantamount to abandoning the core of the professional vocation. What other profession refers clients to the unregulated Internet for information? The American nation and local communities—as reflected by taxpayers, the voting electorate, and their elected representatives at all levels—entrust to their public libraries the professional responsibility to discharge their historical, legitimate, and necessary

role of providing materials of human culture for the benefit of all. [WELIS 218]

43. For my services in the present litigation, I am being reimbursed by the Department of Justice at the rate of $110.00 per hour.

44. I have not served as an expert witness in a legal case in the past four years.

* * * * *

Dated October 12, 2001

signed /s/ DONALD G. DAVIS, JR.
DONALD G. DAVIS, JR.

[D. Ex. 187]
[Rebuttal Expert Report of Donald G. Davis, Jr.]

RESPONSES TO *ALA v. USA* EXPERT WITNESS REPORTS OF JOSEPH JANES, ANNE LIPOW, AND MICHAEL RYAN

by

Donald G. Davis, Jr.
28 November 2001

1. My responses to the Expert Witness Reports of Joseph Janes, Anne Lipow, and Michael Ryan center on two primary points—(1) the general and professional qualifications and the relevant experience of the witnesses to deal with collection development issues and (2) the weaknesses displayed in their statements and arguments relevant to collection development in public libraries.

2. An issue that recurs throughout the report of Janes and the others is the lack of differentiation between various types of libraries. The mission of research libraries, for example, differs substantially from that of public libraries, since the former strives to build comprehensive collections of specialized materials—many of them unique in character—designed for research at the highest levels. They are not intended to serve the general public. The Association of Research Libraries consists of about 120 such institutions in the United States. The mission and role of institutions, such as the Library of Congress and the great university libraries of America, differ dramatically from those of general, community-based public libraries.

3. Joseph Janes. Though Dr. James has taught at the undergraduate and graduate/professional level, among the courses he lists in his report (p.1), one does not find courses related to general collection development and management or content-related issues in public libraries. His interests appear directed primarily toward *promoting applications of Internet resources.* His record of professional activity does not suggest extensive experience in selecting a variety of materials for public libraries. Though Janes has published on digital, electronic information services, he does not appear to have had employment or a sustained association with a real (as opposed to virtual) public library, nor to have taught collection development and management or supervised projects in that subject in the broad context of public libraries.

4. *The main conclusion of the Janes expert report* is that "the blocking programs tested block a significant amount of content that would be appropriate in a library setting" (p.7). Janes conducted his study by using analyses of websites, selected from a database of alleged overblocked sites supplied to him by the plaintiffs' expert. The very term "overblocking"—a term that means blocking a site that has some usefulness—is inextricably linked to the conception of what is essential information for those requiring it, in this case, patrons in a public library. The assignment of the label "overblocking," is conditioned by one's understanding of the institutional context for which the site is being considered. As will be shown below, Janes and the other witnesses do not clearly define the specific context of the public libraries, or specifically the uses made by minors.

5. The study that Janes made of the sampling of a file containing alleged overblocked sites, received from the plaintiffs' expert, made use of 16 students and former students at the Washington school—eleven of which had "less direct experience" and five with "much more experience in school or public library collection development and reference work." (p.4). In the absence of information about the qualifications of either group—how many of the respondents were students and how many had been doing selection work and how then they were able to interpret the instructions for evaluating the sites assigned to them—the study's conclusions are not useable. Judging by my thirty years of teaching experience, most students, though eager and sometimes knowledgeable, have had little experience in actual selection situations. The smaller group of five is described as those with "substantially more experience in library reference and collection development work."(p.7). Considering the absence of specific information about the extent of broad experience in public libraries of these five, the conclusions of this group, too, raise a question of credibility. In short, there is no evidence from which once may ascertain whether these selected respondents can possibly be considered reliable judges in this study.

6. The instructions that the current and former students recruited as judges in the Janes study received (pp.4-6) appear to have been designed to elicit the desired responses. They do not conform to standard kinds of quality content criteria that selectors of materials for public libraries utilize. They include simply whether or not similar information is in libraries, whether or not given infinite resources a librarian might select this information source, and

whether or not any patron of any age might ever be referred to such a source. The fact that public libraries are the context of evaluation is not explicitly acknowledged in the above instructions given to the respondents. In fact they include some "criteria" that are false. They insist, for example, on the faulty premises that (1) whatever is in any library anywhere is a reasonable standard, that (2) a state of infinite resources is the goal of public libraries, and that (3) whatever information whatsoever that a patron of any age asks for is a reasonable request for a public library to supply. The instructions, or "criteria," are in reality only directions or instructions to respondents in this study that refer to *perception* of real or imagined usage. They are in effect, not criteria for content selection at all. However, these instructions merit closer examination in the following three paragraphs.

7. Janes's first instruction (a) is to identify "information similar to that already found in libraries" (pp.4,6). What type of libraries were the students/respondents asked to consider—public libraries that serve the general public, or research and special libraries, as well? Without any qualifications whatsoever, this instruction seems almost irrelevant, in that *some* libraries *somewhere* will contain just about any kind of material. What about the types of libraries—public libraries and school libraries—addressed in the CIPA? This is a critical point for clarification, otherwise the respondents might well have responded in a manner not consistent with the supposed intent of the study. It vitiates the integrity of the results. This appears to be a non-criterion.

8. Janes's second instruction (b) is to identify "information a librarian would want in the library if s/he had unlimited funds to purchase information and unlimited shelf space" (pp.4,6). However, in real life public librarians do not select only on the basis of space and funds being unlimited. They select materials that fit and conform to the standards established by their collection development policies that have, in turn, been developed with community involvement. The meaning of "selection" is *selection*—not *collection*. A hypothetical collection of everything that has been produced is not only of dubious value, but actually detrimental to users trying to find what they want to find and really need. Even research and national libraries, such as the Library of Congress, select from the vast array of materials those items that they will add to their collections. The Library of Congress has long since ceased adding to its collections all the materials it receives through the copyright deposit program. This instruction, too, is a non-criterion.

9. Janes's third instruction (c) is to identify information that the respondent "would be willing to refer a patron (of any age) to the site if the patron appeared at a reference desk seeking information about the subject of the site" (pp.5,6). Janes continues with further directions: "Sites that have a commercial purpose should be included here if they might be of use or interest to someone wishing to buy a product or service or doing research on the Internet, much as most libraries include the Yellow Pages in their collections. A site that is purely erotica should not be noted." Again, this is no real criterion that deals with content, but simply an appeal to supply what a patron wishes to see. What defines the limits of "willing" as far as the eleven less

experienced respondents are concerned? This direction is a far more subjective and personal one than criteria that librarians professionally trained in collection development use in selecting other materials, such as accurate and reliable sources. Janes's instruction is wholly dependent on what the judges in the study (in this case, respondents with varied levels of experience) consider reasonable. It does not take into account content, except in a single matter of erotica. If "purely erotic" is being used as a euphemism for pornography or materials unsuitable for children, this is a subtle misinterpretation of the word. But, if *some* libraries collect this, why is this, and this alone, excluded? Why not material related to bomb making, child pornography, gratuitous violence, terrorist tactics, child abuse, etc? One does not find these materials recommended for the Internet Public Library—a digital resource with which Janes has been associated and that is discussed in the next paragraph. Is the implication that public libraries do not collect this kind of material? If so, there are many other categories of materials that libraries do not select for a wide variety of reasons. The emphatic instruction to include sites with a "commercial purpose" in the amended criterion (c) on p.6, on the basis that the Yellow Pages are automatically included in public library collections is absurd. Even though the Yellow Pages is a well known source, the entries themselves are not fully evaluated for authenticity. No public library directly supplies detailed information on every service advertised as available in the Yellow Pages. If the issue is that of providing any information whatsoever that a patron of any age wants, why is nothing is excluded except pure erotica. In short this, too, is a non-criterion.

10. The Internet Public Library (IPL), which Janes helped to found in the late 1990's, defines itself as "a public service organization and learning/teaching environment at the University of Michigan School of Information" (http://www.ipl.org/). It further describes itself as a project that "seeks to challenge and redefine the roles and significance of libraries in an increasingly distributed and digital world." Even though the principles listed strive to portray content-neutrality, the mission statement, adopted 21 April 2001, gives six activities that are common to public libraries, including "service." Among the tasks describing service are the following: "finding, evaluating, selecting, organizing, describing, and creating information resources." The mission statement concludes with the statement: "We approach the above activities via the values and principles of librarianship." What is being evaluated or selected? When one scans the portions of the web site devoted to teens and youth, one finds headings in the former category for such topics as "Arts & Entertainment," "Dating & Stuff," "Health," and "Style." A quick scan of the resources included under these categories does not reveal references to some of the problematic websites that are at issue in the current case—visual images inappropriate for minors. Why not? If Janes does not subscribe to the standard of appropriateness for Internet resources, why does the IPL insist that it acts guided by professional values and principles? The Internet Public Library claims to, and actually does, select materials that are suitable for minors in a public library—even an *internet* public library. Selection according to content does still retain a place in the accumulation of materials that public libraries gather for their patrons—including minors.

11. Anne G. Lipow. According to the biographical information that Ms. Lipow submitted with her report, she makes no claim to have direct public library experience nor has she taught or supervised projects related to collection development for public libraries. Ms. Lipow was a practicing librarian after the receipt of her M.L.S degree from the University of California, Berkeley—most of the time at her alma mater, a major *research library*. Academic and research libraries have very little in common with community-oriented public libraries. Lipow is an *independent entrepreneur* and publisher who promotes more extensive use of the Internet among libraries of all types. Like Janes, her primary interests, and her livelihood, are centered on the digital environment, according to her biographical statement.

12. The main conclusion of the Lipow expert report is that because of the advent of the Internet and the alleged elimination of concerns of libraries related to financial support and physical space, there is really no difference any more between public libraries, academic and research libraries, and very specialized libraries (p.4). A further conclusion is that an ideal situation would be for any and every searcher to seek any information without a mediator of any kind (p.4). In other words, with regard to Internet resources, no differentiation may, or should be made, between types of libraries, and it is incorrect to argue that librarians should not be involved in selection activities in that medium. The need for even the Internet Public Library, promoted by Janes, is an anomaly, according to Lipow's presupposition. Though her conclusion has little to do with her examination of websites, she, too, used a database contained on a CD furnished by the

plaintiffs' expert, in this case an apparently pre-selected group of 204 sites. There is no indication of the random nature of this selection.

13. Of the group of sites examined, all met the "criterion" of "useful information for someone" and "should be accessible to children." 200 sites fell into three categories—A, B, and C—that correspond generally to what amounts to core sites, marginal sites, and debatable sites. The third category, C, consisted of sites that a library "might not choose" for a variety of reasons, but that patrons doing comprehensive research analysis, etc. might be referred to by librarians. That is, these were sites that "fall outside libraries' collection policies or standards for inclusion" but would be helpful for persons with special needs. An example or two of each type accompany the report, however the examples for type C seem of remote value to patrons, by Lipow's own evaluation. If these examples are indicative, one can only wonder why 74 sites in this category (one third of the total) were deemed acceptable. Here Lipow reveals her presupposition that hypothetically any information of any kind is useful for someone, sometime, somewhere—so it should be collected. (Incidentally, she found only one site "inappropriate for kids"—category D—and that site itself warned those under 18 to not continue further.)

14. Lipow asserts in her concluding paragraph both the presuppositions and the conclusions supported by her and her colleagues—who are promoting the Internet as the new information environment that challenges all the selection standards of the past. The Internet, according to Lipow, apparently defies, and should continue to defy, all efforts to manage it for desirable

ends. The argument is that the Internet has blurred, if not obliterated, the differences between research, school, special and public libraries—as far as the user is concerned. The first erroneous implication of this is that space is no longer an issue, assuming that that was a primary hindrance to the well-selected library. The second erroneous implication is that no mediator of any kind should be needed or even desirable in helping users find information, assuming that all users (including minors) require unlimited access to any type of information that is available anywhere on the planet. This assumption is particularly ironic, given the fact that Lipow has been employed in, and lectured on, reference services. Together, these ideas, carried to their ultimate ends, run counter to the historic mainstream of American librarianship. In short, the conclusions of this report could have been written without any study, because they are not based on meaningful selection principles employed by most public libraries—but rather on the presuppositions of the witness.

15. In reality, it is inconceivable that even unlimited space and funds would eliminate the need for public librarians to select materials that are congruous with the collection development policies that they and their communities have constructed. To assume otherwise is a false assumption that portrays the weakness in the argument. Such a notion is clearly antithetical to the principles of library information and reader's advisory service that maintain that one of the chief professional responsibilities of librarians is to save the time of users and ensure that they do not waste their time in unproductive material. Patrons have come to trust the informed judgment of librarians to have culled for them

from the vast universe of information those materials that will be most useful and productive for them to use.

16. The benefit to patrons, especially children and youth, in community libraries in this environment is not at all clear. According to Lipow, public library patrons must avail themselves of the full impact of the Web without assistance, whether they want to do so or not. Library professionals who do not fully embrace the historic role of public libraries, and the collection development responsibilities they bear, unfortunately can succumb to behaving like uncritical enthusiasts for unbridled access to material of any kind—even to that which the overwhelming majority of communities think should reasonably be limited. Although they see themselves in a heroic role, these information libertarians are running against community interests. They seem to be advocating for public libraries something that would be comparable to forced removal of protective fences around swimming pools that prevent those unable yet to swim from being hurt or worse—and accept liability for their welfare. Will Manley, "Good Fences Make Good Libraries" has written on this point recently in a respected ALA selection journal (*Booklist*, November 1, 2001, p. 446.) (attached as Ex. 1).

17. Michael Ryan. Dr. Ryan is a historian, bibliographer, archivist, and special collections specialist who has spent his career in *research libraries* and makes no claim to have had public library experience; nor has he taught or supervised projects related to collection development for public libraries. His professional and scholarly involvements include serving on the editorial boards of journals, such as *College & Research Li-*

braries and *Rare Books & Manuscripts Librarianship*, and he currently serves as director of the Rare Book & Manuscript Library, University of Pennsylvania. In short, Ryan is an academic librarian who administers unique and specialized materials available for research purposes.

18. However, although Ryan possesses credentials for the field in scholarly, research librarianship, his expertise and experience do not extend to the issues that are relevant to collection development in public libraries. Thus, he has little expertise to evaluate sites relating to these format and content related materials. What are legitimate resources for highly specialized collections designed for research are surely not the kinds of materials that one currently finds in public libraries.

19. The main conclusion of the Ryan very brief expert report is that all the blocked sites that he examined "are legitimate reference and information sources providing a variety of information and content for constituents" (p.1). Ryan lists the categories into which he classified the sites—"group or topic relevance, general usefulness, focus, and transparency." He concludes by saying essentially that all of these sites contain information of some sort and could be accessed from an unfiltered public library, thus he sees no reason for filtering them. In other words, since these sites are all findable from equipment without blocking mechanisms, they are all legitimate. This non-conclusion, that all sites have information that someone might find, is a meaningless statement in the discussion of collection development in public libraries.

20. Based on Ryan's review of the 200 plus allegedly blocked web sites assigned to him by the plaintiffs' expert, he concludes that "all of the blocked sites are legitimate reference and information sources providing a variety of information and content for constituents." From the criteria Ryan uses in his evaluation—"group or topic relevance, general usefulness, focus, and transparency"—and the context in which he evaluated the sites—his own experience—all one knows is that these sites contain information. One can assume under this definition that there are no sites—and by extension, that no sites even exist—that do not contain information of some sort. This logic does not help clarify anything.

21. The final sentence of his concluding paragraph states that "The nature and spectrum of information represented on these sites is consistent with the nature and spectrum of information contained in and accessible from a public library." Ryan appears to agree with Lipow that there is no distinction between public and research library; public libraries become simple connecting points to the Internet. Surely there are vast differences in the clientele and the collections of community public libraries serving a general population and the very specialized users of comprehensive and exhaustive research libraries that Ryan has served. Yet, despite his single mention of the public library, there is nothing in this paper to indicate that Ryan seriously considered the unique role of *public* libraries in serving the needs of the members of the community in which they are located, including children and youth. In Ryan's report, all libraries are treated as the same; there are no distinctions to be made.

22. Summary Comments. Each of the expert witnesses focuses on blocked sites as delivered to them in a database provided by the plaintiffs' expert. None of the expert witnesses acknowledge that currently filtered sites can be freely unblocked or that filtering devices can be disabled by professional library staff members. This is a procedure for dealing with the electronic universe that compares with the kind of decisions that librarians make with regularity with regard to other information media. Materials, such as books, records, etc., need to be individually selected and require professional judgment to ensure maximum value. Likewise, information on web sites that are not selected requires evaluation and decision as to its suitability to the community's users. (Approval plans from library wholesalers work something like this. The library receives items based on its collecting profile, with the provision that it may return to the publisher items that it does not want to acquire.) For the profession to do otherwise would be a departure from common practice of librarians for a century and a half. If selection of materials served the public library's community well in the past, then in the Internet environment the use of blocking and unblocking sites may serve the same purpose and counter the effects of overblocking. The historical record is clear: The ability of librarians with the expertise to select quality materials has been viewed as a critical professional responsibility that has been expected by communities supporting their public libraries.

23. An analogy is useful here. From time to time librarians re-evaluate materials (e.g. books and journals) that they had not selected initially, when a case is made that a work will be appropriate for a public

library collection and meet the information needs of community members. Likewise, a librarian who is conscientiously responsible to the needs of the community will unblock a site that was previously overblocked, if need and appropriateness are indicated. Both of these examples are a normal part of the ongoing evaluating and management of collection resources. Both involve sensitivity to available resources and expressions of community need. Content considerations are important to librarians and the community alike. For a century and half this relationship has been built on developing trust and respect for common values in the community.

24. In summary, all three expert witnesses agree that there are selection criteria of some sort for library collection development, either explicitly or implicitly—Janes looks for "experienced" judges (p.4), Lipow mentions "quality and authority" (p.2), and Ryan refers to "legitimate reference and information sources" (p.1). These admissions support the principle of the selection role of librarians—particularly those serving public libraries. However, while the expert witnesses affirm the professional librarian's classic selection functions, on the one hand, they seem to be saying that the Internet as a collection of web sites should not be subject to the same standards used to the present for other types of materials—even though generally comparable methods for doing so exist. In their view, the Internet is untouchable. This is a contradictory position that flies directly in the face of what public librarians concerned about the enrichment and enlightenment of their communities have undertaken for generations.

25. The propositions of the expert witnesses—that one library cannot be differentiated from another; that the least possible, and preferably no selection and mediation is best; and that any information of any sort will be of some use to some one, in some place, and at some time—are inconsistent with the selection roles that public librarians play in civilized society

The foregoing is a complete and accurate report of my expert opinions in this matter.

30 November 2001 _____

DONALD G. DAVIS, JR.

[D. Ex. 189]
[Expert Report of Blaise Cronin]

The Children's Internet Protection Act: Expert Testimony of Professor Blaise Cronin, PhD, DSSc, DLitt (h.c.), FRSA, FIM, FIInfSc, FLA

1. Preamble

1.1. I write as the Rudy Professor of Information Science at Indiana University, where I have been dean of the School of Library and Information Science for the past ten years. Prior to that I was head of the Department of Information Science at the University of Strathclyde in the U.K., where I held the Chair of Information Science. I have authored or edited some 300 monographs, research articles, technical reports, conference papers, book chapters, and other publications dealing with many aspects of library and information science theory, practice, and policy. I also have extensive international experience, having worked as a consultant for organizations such as the World Bank, Commission of the European Communities, UNESCO, and British Council. By way of illustration, I was a member of the team commissioned by the Department of National Heritage that carried out the *Review of the Public Library Service in England and Wales*, one of the largest ever surveys of public library use and attitudes [1]. Recently, I have studied the market for digital pornography in the U.S. [2]. My curriculum vitae is attached.

1.2. For the last 16 years I have been responsible for directing graduate programs designed to educate librarians, information scientists, and sundry other information professionals. As a result, I have a broadly developed sense of the trends, contemporary and his-

torical, relating to the education and training of professional librarians, particularly in the U.S. and U.K. I also have considerable first-hand familiarity with the various professional bodies associated with the library and information professions in both countries (e.g., The American Library Association, American Society for Information Science and Technology, Association for Library and Information Science Education, Library Association, Institute of Information Scientists).

1.3. Indiana University's School of Library and Information Science (http://www.slis.indiana.edu/), which offers, inter alia, master's degrees in both Information Science and Library Science and a Ph.D. in Information Science, is one of the top-ranking programs of its kind in North America, with almost 6,000 graduates employed in virtually every state and in many foreign countries. In April 2000, the school's faculty was rated #1 overall in the nation for its multi-year scholarly productivity and impact [3]. For the last 50 years the school's MLS (Master of Library Science) program has been continuously accredited by the American Library Association (ALA), the body principally concerned with the formal education of professional librarians in this country.

2. The Children's Internet Protection Act and the Practice of Librarianship

2.1. In this expert witness report I wish to address a number of issues relating to the substance of the Children's Internet Protection Act (CIPA) and, more specifically, to show that the use of a "technology protection measure," as proposed in the Act, is consistent with the traditional principles and prevailing practice of public librarianship in the U.S. More specifically, I shall show that the idea of filtering materials which are

harmful to minors_"any picture, image, graphic image file, or other depiction that (A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors," to use the language of the CIPA_is in keeping with the historical purpose of the public library and the enduring professional ethos of the American library profession. For convenience I'll use the term "pornography" throughout this report to connote the full spectrum of sexually explicit materials.

2.2. First, I'll outline the marketplace for digital pornography in order to demonstrate the nature and scale of the problem facing public libraries. Second, I'll address the related practices of selecting, filtering, and labeling library materials, and show how the adoption of the CIPA is consistent with long-established conventions in professional librarianship as they relate to the handling of pornography. Third, I'll illustrate some basic similarities between the functions performed by filtering software, as proposed in the CIPA, and the traditional bibliographic access systems (e.g., indexes, catalogs) used by librarians. Fourth, I'll show how the CIPA is consistent with existing procedures and practices for handling print-based pornographic materials in public libraries.

3. The Market for Online Pornography

3.1. The amount of pornographic materials freely available via the Internet and World Wide Web is

enormous. The dramatic growth in online pornography and the increasing accessibility of such materials via networked computers in public libraries are creating a very real problem for librarians, and diverting professional time, attention, and resources from mainstream tasks. The CIPA is an attempt to provide the library profession with a pragmatic solution to the problem of minors' exposure to sexually explicit materials. Common sense tells us that allowing children to have unfettered exposure to pornography is neither professionally nor socially responsible. The CIPA provides librarians with a means of dealing with this complex challenge in a way that is consistent with professional practice.

3.2. The Children's Internet Protection Act is a direct response to the dramatic growth in publicly accessible pornography facilitated by the widespread diffusion of internetworking technologies, notably the World Wide Web. For detailed background information on these and related trends, the reader is referred to the sources cited in [2] and the references contained therein. The remarks that follow are based in large measure on these two texts and their supporting references.

3.3. Estimates of the "legal" sex industry worldwide, which includes magazines, striptease clubs, phone sex, videos, and web sites, is about $60 billion annually, or more than twice Disney's global earnings from all of its diversified businesses. The U.S. probably accounts for $15 billion of the total, of which, in turn, video sales and rentals (roughly 700 million per year) alone account for $5 billion. To put things in perspective, revenues for sex goods and services are considerably larger than all movie box office receipts in this country. The adult entertainment sector, to use the favored euphemism, is also more economically significant than all of the per-

forming arts, or, for that matter, professional sports such as football and basketball. In the U.S., commercial web-based pornography is estimated to be generating annual revenues in the $1 billion range; additionally, it is believed that there are more than 250,000 free web sites devoted to pornography. Pornography is the one form of Internet content that seems (almost) recession-proof.

3.4. Daily, millions of Americans surf sex sites (free and pay-for-view) from home, work, and other locations. Evidence of this activity comes from commercial market research firms like Nielsen and Jupiter Media Metrix which measure in-home use of adult entertainment sites on the web, and from other companies, like the portal Sextracker (http://www.sextracker.com), which provide publicly accessible (longitudinal) data on the hit rates of the sites they track.

3.5. The Internet and World Wide Web are facilitating new means of distributing and consuming pornographic goods, and also creating new computer-mediated environments (chat rooms, web rings) and novel experiences (public voyeurism, interactive sex) for the global market. The social ramifications of these trends are likely to be complex: for instance, there is evidence that online sex addiction is on the rise, with an estimated 200,000 cases in the United States. As the percentage of U.S. households with access to the Internet continues to rise (51% in August 2000, according to the Department of Commerce), so, too, does the number of public libraries and schools offering online connectivity. Today, virtually every public library in the U.S. is wired, and every day, millions of U.S. children routinely access the Internet and World Wide Web, from public and pri-

vate terminals located in homes, schools, libraries, and elsewhere.

3.6. Even as the number of children online rises, the amount of freely available accessible, web-based pornography continues to grow. It is estimated that 100,000 web sites contain child pornography [4]. Quite apart from the numerous recorded incidents of children accessing digital pornography in public libraries across the nation, there is the well-documented risk of minors being preyed upon in online chat rooms [5, 6]. The significance of this phenomenon has been powerfully described by Andrew Vachss, an attorney, novelist, and life-long library advocate, in his 1999 testimony to the National Commission on Libraries and Information Science (NCLIS) [7, pp.10-11]:

> You know what the greatest threat to vulnerable children is? It is the very real potential for enticement. Child pornography has always existed. Predatory pedophiles have always lurked outside playgrounds and inside organizations. But the Internet permits, in its interactive form, access to children that would not be available to them otherwise . . . As a research tool, I think the Internet has much to offer. But "chat" is not research. And while it is most certainly a form of "speech," the enticement of children for the sexual gratification of an adult is not a protected form of speech.

3.7. The intersection of these trend lines has manifest public policy consequences for institutions where unfettered access to pornographic materials and potential exposure to pedophiles pose credible concerns. Given the vast amount of digital pornography freely available in the public domain, it would seem, at the very least,

commonsensical to consider how children's risk of exposure to such materials in libraries might be minimized.

3.8. The specific goals of the Children's Internet Protection Act are congruent with the historical assumptions underpinning the practice of librarianship and also the education and training of professional librarians in the U.S. [8] Education and self-improvement have always been cornerstones of the public library movement in the US and other nations, and the CIPA will enable librarians to fulfill their social mission with greater assurance and effectiveness in the evolving digital environment.

4. Selecting, Filtering, and Labeling Library Materials

4.1. The selection of materials and building of collections are the defining tasks of professional librarianship. Selection and filtering have a reciprocal relationship. To argue otherwise is disingenuous. From the patron's perspective, the net effect of an item not being added to a library collection is no different from its being consciously excluded by a librarian. The same holds with regard to de-selection (the systematic removal of items from a collection), otherwise known as de-accessioning, de-acquisition, or weeding. De-accessioning is also a form of filtering. This, of course, is not quite the same as saying that items which are not selected (or are de-selected) are always purposefully, excluded on the grounds of content, since most libraries can afford to purchase (and/or store) only a fraction of what is published, a point made by the late Lester Asheim in his paper, *Not censorship but selection* [9]. But filtering is an inescapable fact of library life.

4.2. Librarians select materials; librarians filter materials. They are trained and remunerated to do so. Over

the years, librarians have often been referred to as "gatekeepers," in recognition of their role as filters between readers and the mass of published material in the public sphere. Increasingly, librarians have been turning their attention to the selection (and filtering) of digital materials. The principles of selection and collection development are today being applied to a wide variety of web-based resources. Because many web sites contain sexually explicit materials, the library profession is confronted with a fresh challenge for which new tools, such as the technology protection measures proposed by CIPA, will be required. Faced with an explosion of pornographic materials in cyberspace, librarians will surely benefit from the use of filtering software in the exercise of their core professional functions.

4.3. Labeling, in its various guises, is an absolutely essential and pervasive activity within professional librarianship. The practice of librarianship is (and always has been) predicated on labeling: from the classification numbers on the spines of books to the broad subject headings (history, biography, fiction, etc.) used to group public library materials for patron convenience. While rating systems for movies or television programs, like library classification schemes and cataloguing systems, may be less than perfect instruments, they have evident social utility and a seriousness of intent.

4.4. Categorizing and labeling are fundamental cognitive processes: they enable us to make sense of the world. We instinctively categorize objects, behaviors, events; and we (in the form of the federal government) label foodstuffs, prescription medicines, and, of course, ourselves (in the context of the decennial census). No one denies that labeling systems, whether it's the Dewey Decimal Classification (DDC) scheme used in

libraries or the categories (e.g., race) employed by the U.S. Census Bureau, are, to resort to the prevailing jargon, anything other than socially constructed. But that is a far cry indeed from saying that they are, as some would have it, inherently, or invariably, "prejudicial" [10].

4.5. Librarians routinely apply labels and rating systems in the exercise of their craft. Children's books are rated in terms of their readability, for example. *School Library Journal*, a leading selection tool for professional librarians, might label a book as * PreS-Gr 3, which means that it is "excellent in relation to other titles on the same subject or in the same genre" and suitable for children in preschool through Grade 3. Logically, there is no reason why one should object to similar labeling of pornographic materials, be they web-based or printed, or to the use of filtering software to identify and screen out certain categories of sexually explicit materials. With CIPA, librarians will still be in a position to evaluate and categorize digital resources: the technology supports rather than displaces the librarian. And, of course, many librarians are already voluntarily using commercial filtering software to assist them in their work.

4.6. Librarians reflexively label materials (e.g., as juvenile nonfiction, or biography) before adding them (or not) to their collections. Once added to the collection they are again labeled (e.g., catalogued and/or classified). In some cases, the labeling is implicit rather than explicit, as when materials are put on restricted access, or otherwise segregated from the mainstream collection—a common tactic for handling pornography in public libraries. Librarians use magazines such as *Library Journal* or the *Horn Book Guide* to read reviews

of new books (reviews often written by other librarians) and then make a decision whether or not to purchase a copy. There are also various specialized selection tools and bibliographies to draw upon, such as *Sensitive Issues: An Annotated Guide to Children's Literature K-6* and *Multicultural Picture Books: Art for Understanding Others*. Librarians' selection and de-selection decisions are filtered though reviews, their own subject knowledge, exposure to collection development guidelines, and their adherence to community standards.

5. Filtering Software and Bibliographic Access Systems

5.1. It is misleading to single out filtering software for criticism, or to refer to the Children's Internet Protection Act as imposing "dramatic, federally mandated speech restrictions on public libraries and schools across the country" [11, p.7]. Such a standard would require that we acknowledge the analogous limitations of traditional subject cataloging and indexing tools and hold them to account in like fashion. Although the bibliographic tools employed by librarians have become progressively more sophisticated over the years, their inherent limitations are widely acknowledged.

5.2. Library users are occasionally frustrated in their attempts to identify, access, and retrieve materials, but these frustrations are not the result of the library profession consciously trying to abridge patrons' First Amendment rights. They are a natural consequence of the limitations of the access tools (catalogs, indexes, etc.) that are used day in day out by librarians and library patrons everywhere. Library indexing and access systems, as much as commercial search engines or filtering software, are inherently imprecise instruments. The net effect of such imprecision is that sometimes documents are unintentionally 'lost' to the user, or the documents which are found have little to do with the subject for which information is being sought. This is not materially different from the claimed effects of filtering software (viz., under-or over-blocking). It is unreasonable to hold filtering software to a higher standard than the other bibliographic access tools used by professional librarians in the daily exercise of their craft.

5.3. In an important sense, much of the technical discussion surrounding filtering software is beside the point. Library patrons access information using a rage of indexes, catalogs, online databases, and web search engines, all of which, as with filtering software, have well-documented shortcomings. Various studies of search engine performance have shown that even the best engines find only a relatively small amount of the information available on a given topic. In their highly cited study [12], published in *Nature*, Steve Lawrence and C. Lee Giles found that the relative coverage of eleven commercial search engines ranged from a high of 35% to a low of 5% of the web, based on a sample of more than 1,000 queries. In sum, much of the web remains uncovered even by the best search engines, and patrons won't always get what they need or want. By way of comparison, the amount of relevant information blocked by filtering software is minute in relation to the amount un-indexed by commercial search engines. David Burt examined the Internet access logs of three public libraries and concluded that "99.93-99.99 percent of the time, the filter did not block innocent sites" [5, p.1], while David Biek's recent statistical analysis of filtering software at Tacoma Public Library found a "remarkable degree of accuracy in the operation of the

CyberPatrol software." The degree to which the intercepted URLs conformed to the library's filtering policy was in the range 95.6%-98% [6]. In other words, the filtering software blocked hardly any sites which should have been freely accessible to the library's patrons.

5.4. Within librarianship a standard performance measure is the relation between recall and precision, namely, the choice between locating much of the broadly relevant information on a topic versus finding fewer but more useful documents. Simply put, the trade-off is between breadth and specificity. Thus, library patrons won't necessarily get everything they want when they search library files. And the reason is simple. Indexing is an art not a science. No two human indexers will come up with exactly the same set of index terms for a group of documents (or other media). This variability means that some documents will be mislabeled (from the patron's perspective), and, thus, effectively denied them. Labeling—the essence of indexing, which, in turn, determines search effectiveness—is an inherently imprecise activity. Many studies have documented how readers fail to find what they are looking for when using traditional library catalogs [13], but we certainly don't invoke censorship as the explanation for aborted or futile searches. The situation with filtering is similar. When filtering software is used, the first step is to label or categorize web sites. Whether this process is performed by human reviewers and/or intelligent software (e.g., neural nets) the resultant categorizations may sometimes be imprecise. This is only to be expected: the categorization of web sites, like the indexing of documents or the cataloguing of books, is necessarily an imprecise, and residually subjective, activity.

5.5. It does not make sense to object to filtering software on the grounds that the underlying algorithms are proprietary and thus beyond the control of professional librarians. Librarians can retain remote control over the "black lists" or "white list" used to define the filtering parameters. They can develop their own labels (e.g., adult entertainment) for categorizing web sites or use existing categories developed by a software vendor, such as CyberPatrol. In the latter case, they will be able to access the list of criteria used by the company's reviewers [14]. Additionally, librarians can have password-protected access to the database which allows them to update or edit the lists. And there is a third option: librarians could develop their own filtering software. Many recent library school graduates have highly developed technical skills (from computer programming through systems design to usability analysis) and there is no reason why libraries could not develop their own filtering software, if they so wished. Over the years, libraries (either individually or in collaboration) have developed a variety of automated systems in-house (e.g., for cataloguing and circulation) and public libraries could quite conceivably develop their own filtering software independently or collaboratively. Buyer groups, consortia, and coalitions are increasingly popular within the library community as a means of achieving common objectives, including, of course, cost containment. Many library cooperatives are involved in the development of information systems and the cataloguing of resources, both printed and electronic [15, 16, 17].

5.6. The Online Computer Library Center (OCLC), the world's largest centralized cataloguing and bibliographic support service with tens of thousands of li-

brary members, has in recent years initiated a project, Cooperative Online Resource Catalog (CORC), to selectively catalogue valuable web resources [18]. The following extract gives a sense of what is involved. It is taken from the CORC web site, which is available at http://www.oclc.org/corc/.

> The OCLC Cooperative Online Resource Catalog service is a metadata creation system for bibliographic records and pathfinders describing electronic resources. You choose which electronic resources to catalog: local and web-based. CORC helps you provide your users with well-guided access to electronic resources. In short, CORC increases the value of the web for your library and its users, giving you the tools you need to organize, select and describe electronic resources. OCLC relies on the expertise of librarians to select valuable resources. The result is a diverse collection, immediately useful to member libraries, as well as local and global users.

5.7. The CORC project demonstrates that librarians, working in collaboration, can make meaningful efforts to identify, catalogue, and provide their patrons with access to web-based materials deemed to be of potential value. T hus, a patron using the library catalog may be directed seamlessly to both print and digital resources. The traditional collection development skills of librarians are, in fact, being applied increasingly to the identification and recording of significant web-based resources, and similar collaborative efforts can be envisaged in respect of digital materials for children (e.g., *The Scout Report*, available online at: http://scout.-cs.wisc.edu/about).

5.8. To claim, as has been done, that the use of proprietary filtering software is tantamount to outsourcing, and, as such, somehow unacceptable to the professional library community, is baseless. First, some libraries do contract out operations to commercial vendors, or rely on buyer-groups or national library supply agencies rather than perform certain functions internally and independently. In fact, outsourcing in one form or another, is by no means uncommon in libraries of different kinds worldwide [16]. OCLC (see section 5.6) is an excellent illustration of how a core professional activity (viz., cataloguing) can be contracted out to a centralized agency with quality and efficiency gains for the participating libraries. Second, even if the development of the filtering software is contracted out, librarians still retain local control and have the option of disabling the technology protection measure for certain categories of use and also of unblocking sites which have been erroneously filtered (see, for example, the Internet filtering policy of the Jacksonville Public Library, available online at: http://jpl.itd.ci.jax.fl.us/-English/library.filter).

5.9. Permitting patrons to view pornography on library computers may have the effect of denying other patrons the opportunity to access bona fide materials. Given the high demand, and finite budget, for computers in libraries, it follows that scarce resources are being misused and legitimate use of community resources is being prevented in at least some cases. Computing facilities, like the book fund or shelf space, are finite resources. Where Internet access is maximally permissive, patrons with legitimate interests will inevitably be disadvantaged on occasion. Imposing time limits on use the use of computing facilities does not, of course, ad-

dress the root problem; it merely increases the bureaucratic overhead. By permitting pornography to be viewed on their premises, public librarians are constraining those patrons interested in accessing educational and information resources. The peculiarity of the situation is underscored by the fact that some patrons use the library's computers to visit sex-themed chat rooms, a conversational medium. Since libraries do not provide patrons with free phone services, one has to ask why another communicative medium, the chat room, is privileged in this manner.

6. Printed Pornography in Libraries

6.1. The technology protection measures proposed by CIPA do not pose a de-skilling threat to librarians. The adoption of filtering software by libraries certainly does not create a potential case of technological substitution; rather, librarians can define (and refine) the criteria and categories used by filtering software, and, moreover, they have the ability to disable the filtering software in cases where, to quote again from the Act, "access for bona fide research or other lawful purposes" is warranted. It is worth noting in this context that today's professional librarians have the technical skills and experience to interact intelligently with vendors, deploy sophisticated software packages in their libraries, manipulate existing software and propose and even institute technical modifications to both off-the-shelf and customized products.

6.2. Very few public libraries acquire pornography for their print collections. Moreover, librarians who claim that the relative under-representation of pornographic materials in their collections is simply a function of finite acquisition budgets are being disingenuous. Pornography, as a subject, is significantly underrepresented in the holdings of American public libraries as a result of choices (filtering decisions) made daily by professional librarians. Logically, therefore, one would expect professional librarians to make similar filtering choices in respect of digital pornography. Specifically, one would expect librarians to systematically filter pornographic materials that might otherwise be available to their patrons via library computers with Internet connections. Not to do so would be to operate a double standard.

6.3. Content-neutrality with regard to pornography is a convenient myth. *Playboy* magazine is a well-known example of the soft porn genre, yet even it has relatively low salience in public libraries. A recent (9/7/01) check of the OCLC WorldCat database (see: http://-www2.oclc.org/) revealed that 428 of that organization's roughly 40,000 member libraries worldwide had catalogued the magazine. More sexually explicit material is even less commonly available—a recent (10/11/01) search revealed that only eight libraries held *Hustler* magazine. Simply put, public libraries have not traditionally acquired pornographic materials, of whatever kind, for their patrons.

6.4. In the early 1990s, Leigh Estabrook and Chris Horak [19, p.53] conducted a survey of both public library patrons and library personnel. Of the librarians surveyed, only 30% thought *Playboy* and *Penthouse* should be available to all patrons, while 37% of librarians said such magazines should not be in the library at all. [By way of comparison, 70% of library users were opposed to the presence of such magazines in libraries and only 3% would make them available to all users.] Historically, pornography has had no place in American public libraries, nor, to the best of my knowledge, has a

case ever been made in the curricula, textbooks, or manuals associated with collection development for the admission of such materials into the tax-supported public library system.

7. Conclusions

7.1. Collection development, "the librarian's raison d'être" [20], does not begin at the library door and end at the computer screen, as far as pornography or any other class of material is concerned. Specifically, there is no historical precedent or contemporary justification for librarians to entertain pornographic materials in their collections. For instance, the Westerville Public Library "deems as inappropriate" the online accessing of "pornographic materials and sexually explicit graphics" [21]. The wording of Tacoma Public Library's Internet use policy is even more specific in this regard [22]:

> The library reserves the right to apply hardware and software control mechanisms to ensure that information provided through its Internet services is consistent with its mission and collection development policies. The Library's acquisition of Internet materials to be made available to Library patrons does not include graphic materials depicting full nudity and sexual acts which are portrayed obviously and exclusively for sensational or pornographic purposes . . . A user may not use the computing resources of the Tacoma Public Library for any illegal or unauthorized act or in violation of any library rule or policy or of any local, state, or federal laws or regulations.

7.2. Web-based resources can be subjected to the same selection, de-accessioning, and filtering criteria as print materials. And they can be labeled (or categorized), as is the case with print materials. Opposition to the CIPA, based on the notion that the management of digital resources is somehow fundamentally different from the management of print materials, is both professionally inconsistent and socially myopic. In my considered opinion, the Children's Internet Protection Act will enable librarians to perform their professional functions more effectively, and in a fashion congruent with established norms and practice.

8. Personal Statement

8.1. I have not provided expert testimony in any cases within the past four years.

8.2. For my services in the present litigation I am being reimbursed by the Department of Justice at the rate of $100 per hour.

8.3. A list of my publications for the last ten years can be found in the attached curriculum vitae, which includes a comprehensive list of my writings.

Notes

1. The Association for Information Management (1995). *Review of the Public Library Service in England and Wales . For the Department of National Heritage. Final Report*: London: Aslib (Published with the permission of the Controller of Her Majesty's Stationery Office).

2. For further information, see the following peer-reviewed journal article: (a) Blaise Cronin and Elisabeth Davenport. (2001). E-rogenous zones: Positioning pornography in the digital economy. *The Information Society*, 17(1), 33-48; and also (b) Blaise Cronin. Uporn my word. In: *Professional Provocations: From the Margins of Libraryland*, Scarecrow Press (forthcoming). The statistics quoted in the present report, and cited in those publications, have been garnered from a wide range of secondary sources. It is important that they be treated with caution. Measuring the web and quantifying consumer behavior in cyberspace are technically complicated and inherently inaccurate activities. Nevertheless, the numbers are plausible leading indicators of a significant social trend propelled by the rapid diffusion of internetworking technologies. I should here acknowledge feedback and insights gained recently from academic colleagues following public presentations on this topic at Indiana University Bloomington, the Royal Melbourne Institute of Technology (Australia), Leeds Metropolitan University (England), Manchester Metropolitan University (England), and Napier University, Edinburgh (Scotland).

3. John M. Budd (2000). Scholarly Productivity of U.S. LIS Faculty: An Update. *The Library Quarterly*, 70(2), 230-245.

4. Attributed to Kevin Bell, a spokesman for the US Customs Service. In: Eileen Gongora (2001). *Pedophiles Prey on Children via the Internet.* Available online at: http://www.starbanner.com/Tchild/internet-pretator517.shtml

5. David Burt (2000). *Dangerous Access, 2000 Edition: Uncovering Internet Pornography in America's Libraries.* Washington, DC: Family Research Council.

6. David Biek (2001). *Demographic Characteristics of Internet Users at the Tacoma Public Library with Special Reference to the Issue of Internet Pornography. A White Paper for the National Research Council Committee on Tools and Strategies for Protecting Kids from Pornography and their Application to Other Inappropriate Material on the Internet.* February 28, 2001. The data are to be found in the Endnote. Available online at: http://www4.nationalacademies.org/cpsma/cstb/-itas.nsf/238912d6ec6e95b4852566f2006da6f5/213b3f74b-045fcbe85256a0e0014ee14?OpenDocument.

7. Testimony of Andrew Vachss, included in: U.S. National Commission on Libraries and Information Science (1999). *Kids and the Internet: The Promise and the Perils.* An NCLIS Hearing in Arlington, Virginia, November 10, 1998. Washington, DC: NCLIS, 1998, pp.5-14.

8. For an example of these historical notions, see Melvil Dewey (1876). The profession. *Library Journal*, September 30, 1, 5-6.

9. Lester Asheim's paper is available online at: http://www.sils.buffalo.edu/faculty/ellison/Syllabi/580/NotCensor.html

10. For a comprehensive statement of the American Library Association's position on labeling, see: http://-www.ala.org/alaorg/oif

11. Daniel Mach (2001). Why filtering is unconstitutional: An update on the ALA's legal challenge to CIPA. *Freedom to Read Foundation News*, 26(2-3), 7-12.

12. Steve Lawrence and C. Lee Giles. (1999). Accessibility of information on the web. *Nature*, 400, July, 107-109.

13. Blaise Cronin (1978). *Catalogue Non-users: Their Characteristics and Attitudes.* London: The British Library Research and Development Department. BLRD Report No. 5452.

14. Deposition of Kevin Blakeman of SurfControl Inc. August 21, 2001, page 83, lines 7-13; page 138, lines 1-4.

15. Blaise Cronin (1998). Library and information science in context. In: Maurice. B. Line, Graham MacKenzie and Paul Sturges (Eds.). *Librarianship and Information Work Worldwide 1998.* London: Bowker Saur, 1-17.

16. James H. Sweetland (2001). Outsourcing library technical services_what we think we know and don't know. *The Bottom Line: Managing Library Finances*, 14(3), 164-175.

17. See, for instance: *Illinois Library Computer Systems Organization: ILSCO Report 2000-2001.* Available online at: http://www.ilcso.uiuc.edu/Web/About/-ar2001.pdf.

18. Information on OCLC and its portfolio of member services, including CORC, is available online at: http://www.oclc.org.

19. Leigh Estabrook and Chris Horak (1992). Public vs. professional opinion on libraries: The great divide. *Library Journal*, 117(6), 52-55.

20. Sheila Corrall (1988). Introduction. In: Sheila Corrall (Ed.). *Collection Development: Options for Effective Management.* London: Taylor Graham, 1-2.

21. Available online at: http://www.wpl.lib.oh.us/library/Internet

22. Available online at: http://www.tpl.lib.wa.us/v2/-Using/Net.htm

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October 15, 2001

[Signed Blaise Cronin]

[D. Ex. 190]
[Rebuttal Expert Report of Blaise Cronin]

Expert Rebuttal Report
Professor Blaise Cronin, PhD, DSSc, DLitt (h.c.),
FRSA, FIM, FIInfSc, FLA

1. I have reviewed the expert reports submitted by Dr. Geoffrey Nunberg, Dr. Joseph Janes, Ms. Anne G. Lipow, and Dr. Michael Ryan on behalf of the American Library Association *et al.* I shall begin my rebuttal by taking issue with some of Nunberg's key presumptions and conclusions and then proceed to address the three reports by Janes, Lipow, and Ryan, which, since they are virtually identical in purpose, methods and weaknesses, I shall treat together. Additional reference works that I have consulted are listed at the end of this report.

2. Nunberg's key point is summed up in the following assertion [p.62]: "It is clearly a mistake to judge that a filter is efficacious simply because it doesn't block the news, shopping, or information sources that people most frequently rely on, because the sites it incorrectly blocks are frequented less often than those it classifies correctly." The first part of this sentence contains a revealing and important observation. To be simple, he is saying that overblocking is not in fact a problem because in reality most of the sites people most frequently access don't contain materials of the kind likely to be excluded by filtering software. Or, to put it even more simply: overblocking is a non-issue. Nunberg's

objection to statistical reality (the second part of the sentence on p.62) is based on his attachment to an imagined, or hypothetical, world, a world in which filtering software is applied to all web sites, not just those actually used by library patrons. But let's put things in perspective: we simply don't know the size of the web, or, more specifically, how many sex sites exist. Indeed, Nunberg concedes this very point [p.65]. There are estimates, of course, but it is important not to confuse estimates with precise measurements. The bottom line is that since we don't *know* the dimensions of the web (or the proportion of cyber real estate devoted to pornography), we can only speculate, as Nunberg does, on the potential for misclassification and overblocking of legitimate sites *were* filtering software to be applied to the web in its totality. Speculation of this kind, though, is not especially helpful when dealing with the practical problem of pornography in public libraries.

3. Nunberg argues [pp.62-63], that misclassification rates would be higher *if* web users' searches were evenly distributed across the universe of sites, but that is neither the case, nor likely to be the case. The reality is that most web users access a relatively small number of sites with the result that the risk of misclassification and overblocking is consequently slight. In any event, additional quality control can be introduced into the filtering process by having, as Nunberg himself points out [p.63], "humans checking out the resulting classifications." This, of course, is a role which librarians are eminently qualified to

perform, given their extensive training in the application of collection development criteria. The realities of web use are revealed in the publicly available statistics. Web traffic, like so much else in life [e.g., 1, 2], is highly skewed. A small number of sites account for a large proportion of all visits. As Adamic and Huberman noted recently [3, p.56], "millions of users flock to a few select sites, paying little attention to millions of others." This kind of distribution is sometimes referred to by statisticians as a power law and by economists as a winner-takes-all-market [e.g., 3]. Nunberg [p.11] illustrates this phenomenon in Table 1. Simply put, 75% of all web traffic is accounted for by 5% of all sites. Generally speaking, web users—library patrons or others—concentrate their searching and surfing activities on a relatively small number of sites, such as ebay, Yahoo!, Disney, etc., a point made by Nunberg [p.11; p.61]. These kinds of mass appeal sites are not typically subject to blocking, since they do not contain sexually explicit content. Consequently, the degree of overblocking that occurs when filtering software, configured to block graphic sexual depictions, is used will be minimal. As Nunberg states [p.61]: "since none of these sites is likely to have been misclassified as "adult" . . . it follows that the vast majority of clicks will go to correctly classified nonadult sites." That is a statistical inevitability of the generalized web search patterns that are acknowledged to exist.

4. Nunberg [pp.16-18] also maintains that Internet filtering software is imperfect, whether text-

based, image-based, or based on human classification. In other words, it doesn't matter which of these you use, the results will be poor in terms of the overblocking of protected speech. The technical explanation, centering on the relationship between recall and precision, is provided by Nunberg in *Section VII, Evaluation of Filtering Software* [pp.57-64]. However, all library classification systems (automatic or manual) have recognized limitations, and readers routinely fail to find desired items when using traditional bibliographic retrieval systems. Filtering software is no different in that regard from conventional bibliographic systems whose shortcomings sometimes prevent library patrons from getting what they want or, alternatively, provide them with materials they don't want. In my opinion, it is unreasonable to hold filtering software to a performance standard that other conventional bibliographic tools do not meet and, moreover, are not expected to meet. Additionally, it should be noted that some of the workplace alternatives, both behavioral and instrumental, to the use of filtering software are themselves imperfect, if not, indeed, ineffectual. The tap-on-the-shoulder approach causes embarrassment to both the pornography-viewing patron and the superintending librarian (not to mention others in the vicinity), while Internet use policies tend to suffer from prolixity and ambiguity, which merely reduces their already limited effectiveness against determined patrons. In short, these kinds of approaches will sometimes result in under and over-enforcement,

just as filtering software results in under and overblocking.

5. According to Nunberg [p.20], who cites the deposition of SurfControl's Kevin Blakeman [4, p.140], the process of overriding/unblocking pages is time-consuming and complicated. Unfortunately, the actual views and experiences of librarians who use filtering software are not reported here. Presumably, the perceived difficulty is a subjective matter. On a related matter, it has been claimed that filtering software removes from librarians a key professional responsibility by effectively outsourcing a content selection function [5, pp.5-6]. In fact, the need for updating stop lists, unblocking sites, vetting new sites, etc. provides an important opportunity for librarians to apply their professional skills to the evaluation, selection, and management of digital content. Third, if the problem is, in fact, significant, then librarians could. as they often do in other regards, collaborate to develop a common filtering tool and shared classification/categorization capability, drawing upon distributed expertise available in libraries across the nation.

6. It is worth noting in this context that libraries in the U.S., in particular, have a strong tradition of collaborating, not just informally but through structured participation in consortia and cooperatives of many different kinds. The International Coalition of Library Consortia (see: http://www.library.yale.edu/consortia/) was established in 1997 and represents the collective

interests of 150 library consortia world-wide. Its creation reflects the importance of institutional collaboration within the library community. Of course, a library can belong to more than one consortium or buyer group, depending on its particular mission and the range of services offered by different consortia. Undoubtedly, the best-known example of a large-scale library cooperative is the Online Computer Library Center, Inc. (OCLC), a non-profit membership organization, based in Columbus, Ohio, serving more than 40,000 libraries in almost 80 countries. OCLC's services (see: http://www.oclc.org/about) include cataloging tools, reference databases, online searching services, resource sharing tools, preservation tools, and Dewey Decimal Classification. At the heart of the OCLC services portfolio is the WorldCat database which contains 46 million cataloging records and more than 827,000,000 location listings. Library cooperatives are not a new phenomenon. Palinet, a cooperative membership organization comprising 600 libraries of all kinds in Delaware, Maryland, New Jersey, Pennsylvania, West Virginia and neighboring states, was set up 65 years ago. Among its many services (see: http://www.palinet.org/services/infotech.htm), Palinet offers its members "comprehensive support for the planning, procurement, integration, and implementation of computer and communication technologies." There are also many state-level library cooperatives, such as the Michigan Library Consortium (see: http://www.mlc.lib.mi.us/), which offers its members software services and technical support. American public

(and other) libraries have a long tradition of co-developing resource-sharing facilities and technological solutions to better accomplish their common objectives, and there is no good reason why libraries cannot work collaboratively on the matter of filtering software development and evaluation.

7. The three reports by Janes, Lipow, and Ryan provide subjective evaluations of the content of a sample of purportedly blocked web sites. The evaluators offer their views on the appropriateness of the blocked sites for inclusion in library collections. By and large, they conclude that most of the content of the blocked web pages is suitable for inclusion in library collections. In making these determinations, they invoke criteria which range from the vague to the kind routinely used by collection development librarians. Janes's criteria [p.4] include "contains information similar to that already found in libraries" and "contains information a librarian would want in the library if s/he had unlimited funds to purchase information and unlimited shelf space." These are fuzzy criteria, markedly in contrast to the detailed guidelines suggested in the ALA's *Workbook for Selection Policy Writing* (see: http://www.ala.org/alaorg/oif/workbook _selection.html). Ryan [p.1] is more specific, invoking "topic relevance, general usefulness, focus, and transparency." Lipow's report [p.2] contains the most concrete criteria. She, for instance, explicitly mentions the quality, and reliability of information. She also cites the authority of the author and the non-objectionable character of the content under consideration for inclusion in a library's collection. And she is fully cognizant of the fact that professional librarians have "collection standards," standards which, one presumes, would be applied to digital materials, including pornography, just as they would to other content categories reviewed by librarians. By acknowledging that librarians objectively evaluate potential library materials, and by actually using such criteria, these experts powerfully reinforce my central contention that collection development is, indeed, a defining aspect of professional library practice.

8. In my view, the concerns raised in the reports relating to the potential for blocking useful sites are exaggerated, given the experts' failure to acknowledge the practical steps that librarians can take to unblock material using any of the leading filtering programs. Many of today's library school graduates, in addition to possessing the traditional skills and knowledge associated with collection development and other core professional functions, also have high levels of systems and computational expertise. One has only to visit the web pages of accredited library and information science schools across the nation (for a comprehensive list, see: http://www.alise.org/nondiscuss/schools.html) to appreciate the extent to which the contemporary library science curriculum is technologically-based, both in theoretical and practical terms. Furthermore, many of today's graduates don't actually work in libraries; their technical skills sets make them highly attractive to employers in the wider

information economy and high-tech sectors in particular. The popular stereotype of the librarian notwithstanding, library school graduates are often highly technically competent and extremely well-informed about developments in the information systems and computing arenas, a trend that has been widely commented upon in the general media (see: http:// www.usnews.com/usnews/edu/beyond/grad/gbmls.htm). Indeed, over the course of the last decade, library and information science schools have often been campus innovators in terms of pioneering information technology-based programs, applications, and awareness.

9. Reading these four expert reports might lead one to conclude that librarians are somehow helpless in the face of overblocking caused by filtering software. That would be a seriously misguided take on the situation. Many library school graduates are technologically proficient—and that proficiency is refreshed via the extensive array of professional development opportunities available within the profession—and even if not every public library in the U.S. is blessed with its own local technical guru, the wealth of technical talent distributed across the nation is quite extraordinary. There is no reason to assume that professional librarians cannot modify or refine categories, unblock sites, and work, individually or collaboratively, to enhance the performance of existing filtering software. Not only is the professional library community highly adaptive and technologically sophisticated but it also has a history of developing and sus-

taining successful consortia and collaborative ventures of various kinds. Indeed, there is no good reason why the library profession could not harness the distributed know-how within its own considerable ranks to develop, co-develop, or modify existing filtering software to better meet its collective needs, as noted in section 6 above.

* * * * *

The foregoing is a complete and accurate report of my expert opinion in this matter.

/s/ BLAISE CRONIN
BLAISE CRONIN November 30, 2001